

# A Costly Reminder for Employers: Employee Awarded Nearly \$200,000 for OHSa Reprisal

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By Daniel Wong, Piper McGavin and Cassandra Doria, Summer Student

The Ontario Labour Relations Board's recent decisions in *Vanessa Braganza v. Randstad Canada* serve as a sharp reminder for employers to properly handle workplace complaints and investigations, as well as the significant legal and financial consequences that can result from mishandling them. In these two decisions, the Board found that Randstad had reprimed against Ms. Braganza contrary to section 50 of the *Occupational Health and Safety Act* ("OHSa") and ordered nearly \$200,000 in compensation for lost wages, injury to dignity, and mental distress.<sup>[1]</sup>

For employers, the decisions convey a simple but critical message: employees who raise health and safety concerns or participate in workplace investigations are protected, and any adverse action connected to either of the foregoing can lead to substantial liability.

## Background

While employed by Randstad Canada, Vanessa Braganza raised a number of workplace health and safety concerns and participated as a witness in an internal investigation initiated by the employer. Shortly after engaging in these protected activities, she began to experience adverse changes to her employment. These consequences formed the basis of her allegation that Randstad had taken action against her because she exercised her rights under the OHSa.

Ms. Braganza alleged that the employer's conduct amounted to a reprisal under section 50 of the OHSa, which prohibits employers from terminating, disciplining or suspending a worker (or threatening to do any of the foregoing), imposing a penalty upon a worker or intimidating or coercing a worker because they engaged in activity protected by the OHSa, including raising health and safety concerns, seeking to enforce the OHSa and participating in a workplace investigation.

Ms. Braganza represented herself in the proceedings and sought monetary compensation for lost wages and the harm she experienced as a result of the alleged reprisal.

## The Board's Findings

### Liability Decision (2025)

In its 2025 decision, the Board concluded that Randstad's conduct constituted reprisal. The Board emphasized that participating in a workplace investigation is a protected activity under the OHSa, and employers must not penalize employees for doing so. The Board also reiterated the importance of maintaining the integrity of employment standards legislation, citing earlier case law warning that reprisals—if left unchecked—risk rendering statutory protections meaningless.

## Remedy Decision (2026)

In the remedy decision, the Board reaffirmed that its **prima facie remedy** for wage loss in reprisal cases is to award wages from the date of termination to the final hearing day, less any income earned from alternative employment per subsection 50(3) of the *OHSA* and the remedial powers in section 96 of the *Labour Relations Act, 1995*.

Randstad argued that Ms. Braganza would have been laid off during a later restructuring and therefore should not be awarded wage loss through the final hearing day. The Board found this evidence insufficient.

## Mitigation

Ms. Braganza testified that she had no employment income after her termination and provided tax assessments and a spreadsheet documenting approximately 700 job applications. Randstad challenged the quality of her job search, but the Board held that the employer had not met the burden of proving failure to mitigate.

## Damages Awarded

The Board awarded damages for direct income loss and for injury to dignity and mental distress, for a total award of nearly \$200,000.

## Key Takeaways for Employers

- 1. Treat All Health and Safety Complaints as Protected Activity:** Any employee who raises health and safety concerns or participates in an investigation is protected under section 50 of the *OHSA*. Investigations must be fair, neutral and free of reprisal. Employees must feel safe participating in investigations.
- 2. Timing Matters for Employment Decisions:** Employers must be able to demonstrate that decisions such as discipline, termination, or changes in duties are unrelated to an employee's complaint or participation in an investigation. Documentation should be consistent, credible, and contemporaneous. This is particularly important where adverse actions are taken shortly after a complaint or participation in an investigation.
- 3. Understand That Damages Can Be Significant:** The nearly \$200,000 awarded in *Braganza* illustrates the Board's willingness to impose substantial financial consequences for reprisal. Damages for lost wages, mental distress, and loss of dignity can escalate quickly.

*The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.*

[1] *Vanessa Braganza v Randstad Canada*, [2025 CanLII 112295](#) (ON LRB); *Vanessa Braganza v Randstad Canada*, [2026 CanLII 46836](#) (ON LRB).

For more information or inquiries:



## Daniel Wong

Toronto  
416.947.5042

Email:  
dwong@weirfoulds.com

Daniel Wong is Chair of the Firm's Employment & Labour Practice Group with a practice that is focused on employment and labour relations.



## Piper McGavin

Toronto  
647.715.7027

Email:  
pmcgavin@weirfoulds.com

Piper McGavin is an Associate in the Commercial Litigation and Employment & Labour Practice Groups. Her practice is focused on a broad range of employment and commercial disputes.

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[www.weirfoulds.com](http://www.weirfoulds.com)

### Toronto Office

4100 - 66 Wellington Street West  
PO Box 35, TD Bank Tower  
Toronto, ON M5K 1B7

Tel: 416.365.1110  
Fax: 416.365.1876

### Oakville Office

1320 Cornwall Rd., Suite 201  
Oakville, ON L6J 7W5

Tel: 416.365.1110  
Fax: 905.829.2035