

Ontario Court of Appeal Brings Clarity to Employment Contract Termination Clauses

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The Ontario Court of Appeal (the "**Court**"), hearing the appeals of *Baker v Van Dolder's Home Team Inc.*, 2025 ONSC 952 (**Baker**) and *Li v Wayfair Canada ULC*, 2025 ONSC 2959 (**Li**) together, clarified the approach to contractual interpretation in the employment context in its recent decision: [*Baker v. Van Dolder's Home Team Inc.*, 2026 ONCA 568](#). The Court clarified and reinforced long standing contractual interpretation principles as they related to employment agreements, finding that a termination provision must be read within the context of the entire contract. Termination clauses that include "at any time" or "at any time and for any reason" will not be automatically deemed unenforceable, rather, such language must be considered within the context of the entire contract and the relevant surrounding circumstances to determine the objective intentions of the parties at the time of entering into the contract.

Key Takeaways at a Glance

- **"At any time" and "at any time and for any reason" language is not automatically unenforceable.** Such language must be interpreted in the context of the entire contract to determine enforceability.
- **Employment agreements must be read as a whole.** Individual phrases in an employment agreement should not be read in isolation without considering the meaning of such phrase within the context of the entire agreement.
- **Compliance with minimum standards legislation remains critical.** Termination provisions are more likely to be enforceable where the contract clearly preserves statutory minimum entitlements.
- **Employers should still review their agreements.** The decision reduces uncertainty, but enforceability remains wording-specific.

Background

The recent decisions in *Baker* and *Li* emphasized the uncertainty employers face in determining whether a termination provision in an employment agreement will be deemed enforceable. In *Baker* and *Li*, the lower Ontario courts assessed virtually identical termination provision language and held that one provision was enforceable while the other was not. In *Baker*, the inclusion of the words "at any time" was held as inconsistent with Ontario's *Employment Standards Act, 2000* (ESA) and therefore deemed unenforceable while in *Li*, the inclusion of the words "at any time and for any reason" was held as valid and enforceable. Discrepancies like this leave little clarity for employers seeking to draft an enforceable termination provision in an employment agreement.

In *Baker*, the lower court held that the inclusion of the language "at any time" rendered the without cause termination provision unenforceable because the ESA prohibits employers from

terminating employees at certain times (e.g. during a job protected leave of absence). Further the with cause termination provision was also held to be unenforceable as it did not explain how the contractual standard for just cause differed from the ESA's statutory standard for willful misconduct.

In *Li*, the lower court held that the inclusion of the language "at any time and for any reason" did not render a without cause termination provision unenforceable when read within the context of the entire contract. The lower court also held that the with cause termination provision was enforceable as it defined cause in relation to the ESA's standard of willful misconduct.

What the Court Decided

The Court confirmed and elaborated on well-established principles of contractual interpretation in the employment context. The Court held that the termination provision wording in *Baker* and in *Li*, when considered in the context of the entire contract and surrounding circumstances reflected an objective intention of the parties to comply with the minimum standards in the ESA.

The Court highlighted that interpreting termination provisions in employment agreements requires a practical, common-sense approach focusing on the objective intentions of the parties when considering the contract as a whole and giving words their ordinary and grammatical meaning. Further, the Court emphasized that a contractual provision is not ambiguous merely because it is possible to find alternative meanings and courts should be wary of finding ambiguity where none exists.

While it may be possible to interpret the words "at any time" or "at any time and for any reason" to mean that the employer sought to ignore statutory provisions prohibiting termination in certain circumstances, such possibility does not create ambiguity. The Court found that when such words are read within the context of the contract as a whole (in the case of both employment agreements), the employer could not have intended for such words to include circumstances that are not permitted under the ESA. In particular, the Court noted that the contracts in both cases expressly and repeatedly stated that the employer intended to comply with the ESA and it would therefore be implausible to interpret the words "at any time" or "at any time for any reason" to intend to permit a violation of statutory prohibitions on termination. The Court held that the without cause termination provisions in *Baker* and *Li* were enforceable.

The Court also held that the with cause termination provision in *Baker* was enforceable, noting that it specifically set out that the employee would be entitled to minimum standards under the ESA in the event of a termination with cause. The with cause termination provision finding was not appealed in *Li*.

The Court declined a request for reconsideration of the Ontario Court of Appeal's decision in *Waksdale v Swegon North America Inc.*, 2020 ONCA 391.

What this Means for Employers

The decision helps to clarify and reinforce how a termination provision in an employment agreement will be interpreted by a court. Specifically, it highlights the need for clear, unambiguous language throughout an employment agreement. Employment agreements that use the language "at any time" will not automatically be deemed unenforceable. Instead, such language may be enforceable where the contract shows an express intention to comply with minimum standards legislation.

For clients, the practical impact is significant. Enforceable termination provisions provide certainty for the parties, mitigate against future legal costs, reduce exposure to common law reasonable notice claims, and support more precise due diligence analysis in transactions, restructurings, and workforce planning. Employers should use this decision as an opportunity to seek a legal review of their employment agreements to ensure they contain clear, unambiguous language that is consistent with minimum standards legislation.

To learn more about how our team helps employers navigate workplace issues, draft enforceable employment agreements, and mitigate risk on terminations, visit BD&P's [Employment & Labour](#) Law group page.