

# When is a release effective to bar a safety-related complaint?

January 09 2018 | Contributed by **Dentons**

In *Wieler v Saskatoon Convalescent Home* (2017 SKCA 90 (CanLII)) the Saskatchewan Court of Appeal ruled that a release signed by a terminated employee barred her complaint against her employer under occupational health and safety (OHS) legislation.

The employee, a nurse at a long-term care home, was dismissed by the employer during the probationary period on the basis that she was "not suitable". After seeking legal advice, she signed a release in exchange for one month's termination pay.

Less than one month after signing the release, the employee filed a complaint with the Saskatchewan Ministry of Labour Occupational Health and Safety Division, alleging that before her termination she had raised safety issues with management regarding bullying and unsafe staffing levels.

The court stated that OHS legislation is for the general benefit of employees and that such benefit should not be bargained away via a release or other agreement. However, after the occurrence of a so-called 'triggering event', which provides a worker with the right to file a complaint under the legislation, that right becomes personal to the worker. Where a worker has given a release in respect of a personal right, the validity of the release must be reviewed. In addition, for the release to be effective to bar the personal OHS complaint, the timing of signing the release (ie, before or after the personal OHS issue arose) must be examined.

In this case, the release was valid and the personal OHS issue occurred before it had been signed. Therefore, the employee was barred from advancing her OHS complaint, which was dismissed.<sup>(1)</sup>

*For further information on this topic please contact [Adrian Miedema](#) at Dentons Canada LLP by telephone (+1 416 863 4511) or email ([adrian.miedema@dentons.com](mailto:adrian.miedema@dentons.com)). The Dentons Canada LLP website can be accessed at [www.dentons.com](http://www.dentons.com).*

## Endnotes

(1) For more information please see [www.occupationalhealthandsafetylaw.com](http://www.occupationalhealthandsafetylaw.com).

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## AUTHOR

**Adrian  
Miedema**

