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# e2r Alert!

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## Termination of a Pregnant Employee Proves Costly for Ontario Employer

A recent decision by the Human Rights Tribunal of Ontario ("HRTO") reminds Ontario employers once again to avoid terminating employees based on a prohibited ground of discrimination, in this case pregnancy (sex).

Ms. Iskander was hired as a cook at a restaurant in Ottawa. During the interview process, Ms. Iskander made it known to the owner that she was pregnant and that she needed to work sufficient hours to ensure she could qualify for EI benefits when it came time for her to take pregnancy/parental leave.

She was offered employment which included an hourly rate of pay, the ability to participate in the Company's tip pool and annual vacation. They agreed that her weekly hours of work would be variable at first but that, following a short ramp-up period, she would be given full-time (or close to full-time) hours.

Ms. Iskander's first week of employment went off without a hitch. There were no concerns raised about her performance and there were discussions about her hours increasing soon.

When Ms. Iskander inquired via text message about her hours of work for the next week, she received a message back stating that she was no longer needed. Specifically, "We hired a new Cook as a casual and we understand that as per your Facebook you will be leaving after the baby is born so we had to take that decision".

The employer stated that they made the decision to terminate based on a Facebook post by Ms. Iskander that led them to believe she did not intend to stay in Canada after giving birth. However, the employer did not at any point ask Ms. Iskander about her future plans in Canada prior to terminating her employment.

The HRTO found in favour of Ms. Iskander.

Employers should note that in order to establish a violation of the *Human Rights Code*, the Tribunal only needs to find that the employee's pregnancy was *one* of the factors in

the employer's decision to terminate. The Tribunal found that the employee experienced discrimination in employment on the grounds of sex (including pregnancy), as a result of the employer's conduct in terminating her employment.

Therefore, Ms. Iskander was entitled to a remedy for the breach of her protected rights, and she was awarded:

- \$7,499 in lost wages;
- \$15,350 for lost EI maternity and parental leave benefits; and
- \$15,000 for injury to dignity, feelings and self-respect.

Navigating an employee termination is never easy but certainly become trickier (and costlier!) when a prohibited ground of discrimination is at play. As always, if you have any questions regarding a specific situation, please do not hesitate to reach out to speak with an e2r™ Advisor.