

3 Of 4 Courts Uphold Mandatory Vaccination Policies



Since the vaccination rollout, human rights commissions across Canada have issued guidance reassuring employers that mandatory vaccination is legal as long as it's vital safety to the safety of the particular workplace and necessary accommodations are made for the disabled and other protected groups. But while guidance is nice, we all recognize that the courts will have the final say on the matter. And now courts and arbitrators have begun weighing in. There've been 4 cases, all but one of which went in the employer's favour:

- On November 9, an Ontario arbitrator upheld a mandatory vaccination policy covering 4,400 security guards working at 450 client establishments as a necessary measure to meet employers' OHS duty to ensure a safe workplace [*United Food and Commercial Workers Union, Local 333 v. Paragon Protection Ltd.*, November 9, 2021].
- Two days after *Paragon*, another Ontario arbitrator ruled that the Electrical Safety Authority's mandatory vaccination policy was unreasonable to the extent the employer couldn't prove it was necessary given the success of its previous, less draconian infection control policies [*Electrical Safety Authority v. Power Workers' Union*, Grievance ESA-P-24, November 11, 2021].
- Perhaps the most significant ruling came on November 15 when a Qu bec court found that a mandatory vaccination policy that complied with current COVID-19 public health order didn't violate the Charter rights of union employees [*Union des employ s et employ s de service, Local 800 c Services m nagers Roy lt e.*, 2021 CanLII 114756 (QC SAT), November 15, 2021].
- On December 2, a federal court refused to block the RCMP's mandatory vaccination policy and told the officers challenging it to take their case to labour arbitration [*Wojdan v. Canada (Attorney General)*, 2021 FC 1341 (CanLII), December 2, 2021].