The Top 5 OHS Cases of Autumn 2026



Here are what we believe to be are the five most significant occupational health and safety (OHS) cases reported in Canada this autumn and how they impact you.

1. Top OHS Fine: Millwright's Machine Death Costs Ontario Cement Plant Nearly $500K

What Happened: A cement plant shutting down for the season turned off electrical power causing a gate of an overburden hopper used for moving quarry material to close while a young millwright apprentice hired by a subcontractor was doing maintenance work inside. Sadly, the worker didn't survive the experience. The plant pleaded guilty to failure, as a constructor, to ensure blocking was installed to prevent the movement of equipment during repair work and was hit with a $475,000 fine [*St. Marys Cement Inc. (Canada)*, MOL Press Release, September 28, 2026].

Significance: This is the second highest reported OHS penalty in Ontario this year and the fourth highest nationwide.

What To Do: Implement a legally sound Machine Guarding Compliance Game Plan at your workplace to prevent something like this from happening to your company.

2. British Columbia Sues AI Provider for Not Preventing Tumbler Ridge Massacre

What Happened: The February Tumbler Ridge massacre was among the most disturbing workplace violence incidents in recent memory. Now the Government of British Columbia is suing U.S. AI company OpenAI for its alleged role in the tragedy. The lawsuit claims that OpenAI's internal safety team flagged the shooter's violent ChatGPT chats in June 2025 and suggested calling the police but that company leaders rejected the idea choosing only to deactivate the shooter's account. Although OpenAI's CEO later issued a public apology promising safety changes, the province claims that the company hasn't followed through. In addition to money damages to support the victims and build a new school, BC is seeking court orders that would force OpenAI to change the way it handles violent threats on ChatGPT [*British Columbia v OpenAI*, Govt. Press Release, September 21, 2026].

Significance: The takeaway from the *OpenAI* case is that companies may have a legal duty to protect third parties that they know face an imminent risk of violence. That includes not only AI providers and social media platforms but also employers.

What To Do: Find out how to perform a Workplace Violence Compliance Audit to uncover potential blind spots in your prevention program.

3. Sawmill with Robust Safety Program Used Due Diligence to

Control Wood Dust Hazards

What Happened: A WorkSafeBC inspector carrying out a combustible dusts targeted compliance audit cited a sawmill operator after observing accumulations of sawdust. A few months later, the inspector returned to check out a reported machine injury and spotted secondary wood dust on elevated surfaces in the planer room. So, it issued further contravention orders and imposed an administrative monetary penalty. But the Workers' Compensation Appeal Tribunal (WCAT) dismissed the charges after finding that the employer exercised due diligence in its efforts to manage combustible dust in the sawmill. "The employer had a robust program to ensure dust and fire prevention and suppression and mitigated the risk to its workers," the WCAT explained while also citing its detailed loss management manual/risk assessment, robust wood dust management programs, annual audits, and investments in equipment, monitoring measures, and personnel to prevent dust accumulations, sparks, and fires [*A2200516 (Re)*, 2026 CanLII 101553 (BC WCAT), September 10, 2026].

Significance: The mere presence of combustible dust isn't enough to convict an employer of an OHS violation, especially when the company implements a robust program to prevent dust explosions.

What To Do: Take a page from the sawmill's playbook by implementing your own effective Combustible Dust Safety & Compliance Game Plan.

4. Termination for Long Medical Absence Is Failure to Accommodate

What Happened: After years of medical absences and with no prospects of ever returning, a railway decided that the time had come to close the file on a locomotive engineer with over

30 years of service. The union claimed the termination violated the disciplinary provisions of the collective agreement as well as a failure to offer reasonable accommodation for her disability. The federal arbitrator rejected the first argument but accepted the second. The decision to terminate was an administrative rather than disciplinary action that required an investigation under the collective agreement, the arbitrator reasoned. However, pulling the plug on her employment due to health reasons without first doing an individualized evaluation of her capacity, work history, computer proficiency, or willingness to relocate was a violation of the railway's human rights law duty to accommodate the engineer to the point of undue hardship. Result: The railway had to reinstate her with full seniority and compensation for all wages, benefits, pension credits, and losses the engineer incurred since dismissal [*Canadian Pacific Kansas City Railway v Teamsters Canada Rail Conference*, 2026 CanLII 102298 (CA LA), August 14, 2026].

Significance: You can't simply draw a line in the sand and decide that an injury- or disability-related absence has lasted too long to keep a position open without performing an individualized medical assessment of the worker in question.

What To Do: Find out how to implement a legally sound Return to Work Compliance Game Plan for injured workers.

5. Just Because Worker Felt Threatened with Reprisal Didn't Mean He Was Threatened

What Happened: A worker who filed a grievance against his employer signed a settlement resolving the issues and requiring both parties to keep the terms confidential. He later complained to an OHS officer about being threatened with reprisals during the grievance process. So, the employer's

lawyer sent the worker an email accusing him of violating the confidentiality clause of the settlement agreement. In response, the worker submitted an OHS reprisals complaint. The OHS investigator dismissed the complaint. The Nova Scotia Labour Board rejected the worker's appeal. While he might "have felt threatened or intimidated" by them, the lawyer's emails "were solely for legitimate business reasons" and didn't constitute an illegal threat of reprisal [*Jamieson v Halifax Regional Centre for Education*, 2026 NSLB 131 (CanLII), September 15, 2026].

Significance: The moral of *Jamieson* is that reprisal is based on an objective rather than subjective standard. In other words, acts and deeds don't constitute threats or intimidation if a reasonable person wouldn't perceive them as such, even if that's how the particular worker experiences it. The overriding objective is to keep the lines clear.

What To Do: Find out how to avoid reprisals liability when disciplining workers who commit infractions unrelated to their work refusals or previous exercises of OHS rights.