

Ontario Employer Pays \$300,000 Fine for Workplace Incident

Monday, October 2, 2017

Fiera Foods Company ("Fiera") was recently fined \$300,000 after pleading guilty to violations of Ontario's *Occupational Health and Safety Act* (the "Act") following the death of a worker at its commercial bakery on September 2, 2016. The worker was not employed by Fiera, but rather a temporary help agency contracted by Fiera. The temporary help agency was not charged by the Ministry of Labour under the Act. In addition, as a condition of the guilty plea, charges against a supervisor at Fiera were dropped.

Pursuant to the Act and its regulations, employers are required to ensure that certain measures and procedures are carried out in the workplace, including ensuring that "jewellery or clothing that is loose or dangling or rings shall not be worn near any rotating shaft, spindle, gear, belt or other source of entanglement."¹ The legislation provides that a corporation that contravenes the Act or its regulations may be fined up to \$500,000.

The worker at the Fiera facility was wearing a hijab that was loose at the ends. At the time of the incident, the hijab became tangled in a conveyer belt at the facility, causing fatal injuries to the worker. The worker in question had only been working at Fiera for approximately three weeks when the incident occurred.

The worker's death has received significant attention both because of the amount of the penalty and the rising concern for the safety of temporary help workers more generally, including greater attention from media and the Government of Ontario. In fact, the government's recent proposed amendments to the *Employment Standards Act, 2000* (the "ESA") include provisions targeted at ensuring temporary help workers receive greater entitlements under the ESA, including equal pay to employees performing similar work.

The tragedy that took place at Fiera provides several important takeaways for employers. First and foremost, the fine levied against Fiera serves as a reminder for employers of the significant consequences of contravening the Act and the importance of reviewing workplace safety policies and practices to ensure compliance with legislative requirements. Second, it serves to support the government's message that increased protections are needed for "precarious employees" including temporary help workers, such as those provided for in the government's proposed amendments to the ESA. Finally, the incident serves to remind employers that they may be held liable for the health and safety of all workers in the workplace and not just employees.

¹ *Industrial Establishments*, R.R.O. 1990, Reg. 851, section 83(2).

AUTHOR

Bethan Dinning
T 416.367.6226
BDinning@blg.com

BLG OFFICES

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T +1.403.232.9500
F +1.403.266.1395

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T +1.514.954.2555
F +1.514.879.9015

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T +1.613.237.5160
F +1.613.230.8842

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2017 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.