The Supreme Court of Canada Confirms the Jurisdiction of Arbitrators to Decide if Grievances Based on Section 124 of the Arls are Admissible

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On July 29, 2010, the Supreme Court of Canada rendered three judgments in which five of the nine judges declared that grievance arbitrators have jurisdiction to decide whether employees who do not have job security and grievance rights under a collective agreement may file grievances based on section 124 of *An Act respecting labour standards*.

In June 2008, the Court of Appeal, then seized of the same dispute, had concluded that the Labour Relations Board had exclusive jurisdiction over such grievances.

Although this decision contains an elaborate and articulate dissent, the reasons of the majority set the tone to follow.

Thus, and despite the provisions of a collective agreement preventing the filing of a grievance in cases of termination of employment, an employee having two years of uninterrupted service could base himself on section 124 of the ARLS to institute his recourse before an arbitrator.

The Court was nevertheless unanimous in rejecting the theory of implicit incorporation of a standard public order.

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