

# Regulation of Paramedics and Emergency Medical Attendants: A Jurisprudence Review

Health Professions Regulatory Advisory  
Council (HPRAC)



**Paramedics:  
A Jurisprudence Review**

October 2012

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## **Objective:**

The Jurisprudence Review provides a review of cases regarding paramedics in the jurisdictions covered in the jurisdictional review. The goal of the jurisprudence review is to provide an overview of the legal issues that arise with respect to paramedics in various jurisdictions.

## **Search Methodology:**

The LexisNexis Quicklaw legal database was searched using a variety of search terms for each common law province in Canada. Please see Appendix “A” for a description of the LexisNexis Quicklaw legal database. The primary search terms used to ensure a thorough and comprehensive search for relevant case and tribunal decisions included: paramedic, ambulance attendant, emergency medical responder, emergency medical attendant, and emergency medical technician. Significantly, where searching these terms yielded a significant number of results (typically more than 200) the following additional terms were used to narrow the results: misconduct, harm, risk, negligence or negligent, incompetent or incompetence, standard of care, and professional or profession. These searches were conducted between June 17, 2011 and July 13, 2011 and were performed using Quicklaw’s “All Canadian Court and Tribunal Case Law” feature, which contains all available reported and unreported full text judgments from Canadian Courts and Tribunals as well as LexisNexis case law summaries. Additionally, a similar search was conducted for all jurisdictions on October 9, 2012 spanning the previous 15 months (from August 9, 2011 to October 9, 2012) to update the search results.

Search results were screened by quickly reviewing the headnote and full text of each case. Cases were deemed relevant if they included any allegation or reference to a paramedic’s misconduct, whether on or off duty. These ‘relevant’ results, as mentioned and very briefly summarized in the search results table, were subsequently narrowed by excluding those cases which did not directly impact patient care or that were employment/labour matters which did not touch upon the skills of the paramedic in question. This narrowed list of cases, as labeled in **green** on the search results table, were summarized more fully and are included in the summary of findings section of this report.

## Limitations

A limitation of the search methodology was that Quebec was not included in the jurisprudence review due to difficulties in obtaining legal translations of case law from that province. In line with this, there were approximately 15 cases from New Brunswick that were reported exclusively in French and as such were also not included in this jurisprudential review. Furthermore, decisions of any bodies, including discipline committees or similar adjudicative mechanisms of self-regulating bodies whose decisions are not available through Quicklaw were also not included in the review.

## **Summary of Case Review:**

Below is a chart that summarizes the findings of the jurisprudential review. Specifically, it identifies, by jurisdiction, the number of cases and the number of times specific issues raised in those cases.

In regards to the issues that arose, several general issues came up on multiple occasions: competency, abuse of others, dishonesty, and substance abuse. By far the largest number of cases concerned issues of competency and whether the paramedic in question acted negligently in his or her treatment of patients. The second most common issue that arose was in relation to dishonest conduct, which included issues of falsifying documents, lying about interactions with patients, cheating on certification exams, and lying about qualifications. The third most frequent issue was abuse of others. The category of abuse most frequently concerned the issue of sexually assaulting patients, and to a lesser extent included the issue of sexually, physically, and verbally abusing co-workers. Finally, substance abuse was the least common issue of those that arose on multiple occasions. The category of substance abuse included issues of a paramedic being intoxicated at work, attending work with alcohol on their breath, and in one case involved a paramedic who stole medical supplies and prescription pads in order to support their addiction.

In terms of jurisdiction, Ontario, British Columbia, and Alberta had the first, second, and third largest number of cases dealing with paramedics, respectively. These provinces are respectively the first, second, and third most populous provinces considered in this review.

### **Arbitration vs. Court Cases**

Just under half of the decisions summarized below were decided by a tribunal rather than the courts. As a result, it is important to consider the difference between the court and tribunals and why so many tribunal decisions arise in the context of disputes with paramedics.

Tribunals are established by statute for a specific purpose and they have a limited and specific area of jurisdiction. In contrast, the court system has inherent jurisdiction over all matters. The primary differences between tribunals and the courts relate to the fact that tribunals are set up to be less formal, less expensive, and more expedient than the traditional court system. In particular, the rules of evidence and procedure tend to be much more relaxed in a tribunal as compared to the courts. Additionally, tribunal members usually have a specialized expertise in the area of law in which they are making decisions, while judges tend to have a more generalized expertise.

There are many tribunal cases in the context of paramedic actions because their actions, as paramedics, are in the context of their employment and there exists many employment/labour tribunals throughout Canada that have jurisdiction over employment related matters in their respective provinces. Therefore, when disputes arise between paramedics and their employers, typically because the paramedic in question argues that they were unjustly disciplined for their alleged misconduct, the matter is heard before a labour/employment tribunal. While the tribunal cases discussed typically relate to disputes between a paramedic and their employer, the court cases identified are typically claims of negligence brought by members of the public.

An important similarity between tribunal and court cases is that there will be no decision reported where there is no matter in dispute or where it is resolved before the judge or tribunal member renders a decision. So, where a paramedic does not dispute his employer's disciplinary action or a member of the public decides not to file a claim for negligence there will be no matter for a tribunal or the courts to consider. Similarly, where the paramedic and employer/member of the public come to a settlement before a decision is rendered the matter would not appear in a jurisprudential review. As a result, a jurisprudential review is inherently unable to capture the complete extent of issues that arise related to the practice of paramedics.

Another important similarity is that both courts and tribunals are subject to the rules of precedence. Courts are obliged to follow the decisions of higher courts but decisions of the same level court are only persuasive authority. Similarly, tribunals are obliged to follow all decisions rendered by a court but earlier decisions made by that same tribunal are only considered persuasive and not binding. Under certain circumstances the courts will review a tribunal's decision; however the courts will usually treat the tribunal's decision with deference if the issue in dispute relates to the tribunal's area of expertise.

**Chart summarizing the findings of the jurisprudential review**

The below chart summarizes the findings of the jurisprudential review. Specifically, it identifies, by jurisdiction, the number of cases and the number of times specific issues are raised in those cases.

A few notes about the chart should be made:

- The number of issues may exceed the number of cases as more than one issue may arise in a given case
- Where more than one court case deals with the same individual and issue (i.e. where one decision is an appeal of another), it will not be counted as 2 distinct issues.
- The issue headings should not be read as implying guilt – they indicate simply the issues that arose.

<b>Province</b>	<b>Number of Cases</b>	<b>Number of Court Cases</b>	<b>Number of Arbitration Cases</b>	<b><u>Issue:</u> Competence in carrying out job duties (i.e. claims of negligence)</b>	<b><u>Issue:</u> Abuse of patients or coworkers, sexual or otherwise</b>	<b><u>Issue:</u> Hiding past indiscretions and/or dishonest conduct</b>	<b><u>Issue:</u> Issues relating to intoxication and substance abuse</b>	<b><u>Issue:</u> Other</b>
<b>Alberta</b>	<b>7</b>	<b>4</b>	<b>3</b>	<b>3</b>	<b>2</b>	<b>4</b>	<b>0</b>	<b>0</b>
<b>British Columbia</b>	<b>11</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>0</b>
<b>Manitoba</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1- inquest that discussed paramedic training</b>

Province	Number of Cases	Number of Court Cases	Number of Arbitration Cases	Issue: Competence in carrying out job duties (i.e. claims of negligence)	Issue: Abuse of patients or coworkers, sexual or otherwise	Issue: Hiding past indiscretions and/or dishonest conduct	Issue: Issues relating to intoxication and substance abuse	Issue: Other
New Brunswick	4	2	2	0	1	1	1	1 – issue of seniority and paramedic training
Ontario	16	8	8	11	3	3	4	3 – (1) paramedic that failed to obtain proper certification; (2) Coroner's inquest into effect of paramedic strike on the delivery of emergency medical services; and (3) whether employer could impose new job requirements on paramedics
Saskatchewan	1	1	0	0	0	0	0	1 – Issue concerned a paramedic's affiliation with the Hells Angels
Newfoundland & Labrador	1	1	0	0	1	0	0	0
<b>Total in Canada</b>	<b>42</b>	<b>23</b>	<b>19</b>	<b>22</b>	<b>9</b>	<b>10</b>	<b>5</b>	<b>6</b>



## Summary of Cases:

This section contains the summaries of the relevant cases in each of the jurisdictions covered by this review. Specifically, these cases were both initially flagged as relevant and then narrowed because they touch upon risk of harm to a patient, and therefore coloured in **green** in Appendix B. The cases are sorted according to province, however, not all provinces are represented in this section as not all provinces yielded cases that required summary.

### Alberta

Title	<b>Edmonton (City) v. Canadian Union of Public Employees, Local 3197 (Sagstuen Grievance)</b>
Citation	[2007] A.G.A.A. No. 68
Court	Alberta Grievance Arbitration
Source	QuickLaw
Search terms	emergency medical responder!
Accessed	July 8, 2011
Relevance	Issue in this case is whether concealing former employment as an EMT to hide past indiscretions is grounds for termination.

Summary	<p>The Grievor was employed by the City of Edmonton (the "City") as an emergency medical technician but was dismissed because the City discovered that the Grievor had intentionally excluded information about his previous employment from his job application to hide the fact that he was terminated due to his behavior toward female staff. The City conducted an investigation and, when questioned, the Grievor was not honest and forthright about his previous employment and the circumstances surrounding his dismissal therefrom. The City terminated the Grievor's employment and the Grievor filed a grievance claiming that he was dismissed without just cause.</p> <p>Pursuant to the authority of case law on the subject, the Board considered the following factors in determining whether this falsification of an employment application constituted just cause for discharge:</p> <ol style="list-style-type: none"> <li>1. <i>The nature and character of the falsification and the matter concealed</i> <ul style="list-style-type: none"> <li>• In this case, the Grievor crafted his resume in a fashion to conceal his previous employment.</li> </ul> </li> <li>2. <i>The number of matters concealed</i> <ul style="list-style-type: none"> <li>• The Grievor actively concealed his employment at 3 former positions and subsequently lied about the reasons he left 2 of them.</li> </ul> </li> <li>3. <i>The date when the concealed matter occurred in relation to the signing of the employment application</i> <ul style="list-style-type: none"> <li>• The Grievor's concealed previous employment was within 3 years of when he applied for employment with the City</li> </ul> </li> <li>4. <i>Any warnings contained on the employment application.</i> <ul style="list-style-type: none"> <li>• The application form instructed applicants to fill out the forms as completely as possible and contains a declaration, signed by the applicant, that all information on the application is true and that any deliberate false statements will result in the exclusion of the application from the competition.</li> </ul> </li> <li>5. <i>Whether the revelation of the matter concealed would have resulted in the employer not hiring the individual.</i> <ul style="list-style-type: none"> <li>• If the City had known that the Grievor had been fired from three EMT jobs in the 3 years prior to his application with the City, the City may very well have decided to not offer the Grievor the position.</li> </ul> </li> <li>6. <i>The time that has elapsed between the signing of the false application form and the date of discovery.</i> <ul style="list-style-type: none"> <li>• The Grievor submitted his resume and application in December 2005 and the information was discovered in May of 2006.</li> </ul> </li> <li>7. <i>Whether the employer acted promptly upon learning of the falsification of the employment record.</i> <ul style="list-style-type: none"> <li>• The City did act promptly upon discovery of the information.</li> </ul> </li> <li>8. <i>The seniority of the Grievor.</i> <ul style="list-style-type: none"> <li>• The Grievor is a very junior, probationary employee who only worked for the City for about 5 months.</li> </ul> </li> <li>9. <i>Whether the Grievor was in fact discharged for the falsification.</i> <ul style="list-style-type: none"> <li>• The Grievor was terminated.</li> </ul> </li> <li>10. <i>The materiality of that falsification to the work performed.</i> <ul style="list-style-type: none"> <li>• The fact that the Grievor had been terminated from 3 EMT jobs in the three years prior to his application with the City is material as to whether the City could have confidence that he would perform well for the City as an</li> </ul> </li> </ol>
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	<p>EMT over an extended period of time.</p> <p>11. <i>Special considerations such as a sensitive employment position.</i></p> <ul style="list-style-type: none"> <li>• EMT's work in a position of trust with the City and are required to work independently and without a great deal of direct supervision. EMT's are key members of the healthcare team and must be trustworthy and dependable.</li> </ul> <p>Given that trustworthiness is a key job requirement for an EMT position, the Board found that the Grievor's misrepresentation, both in actively misrepresenting his employment record and lying to investigators, was an extremely serious offence and demonstrated that he is not suitable for the EMT position with the City. Therefore, the grievance was dismissed and the discharge upheld.</p>
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Title	<b>Calgary (City) v. Canadian Union of Public Employees, Local 3421 (Gee Grievance)</b>
Citation	[2001] A.G.A.A. No. 72
Court	Alberta Grievance Arbitration
Source	QuickLaw
Search terms	ambulance attendant!
Accessed	July 8, 2011
Relevance	Issue is whether failure to conduct an assessment, as required, and falsifying a patient care report constitutes grounds for termination.

Summary	<p>A paramedic was terminated following an incident at the Arrest Processing Unit of the City of Calgary Police Service, where a severely intoxicated individual died of acute alcohol poisoning. The Grievor, as the on duty paramedic, was obliged pursuant to the policies and guidelines of the EMS to do an assessment and fill out a patient care report, however, when the incident was investigated, and videos reviewed, it was apparent that the Grievor had not carried out the assessment as required, and that the patient care report contained one or more false entries. The Grievor denied that he had failed to complete the assessment, and only admitted that two of the entries in the patient care report were erroneous, and now grieves his termination.</p> <p>The Arbitration Board determined that the discharge of the Grievor was appropriate in all the circumstances, given the failure to do the assessment as required and the falsification of the patient care report. Furthermore, the Arbitration Board found that it was not appropriate to reinstate him, in the circumstances, because the Grievor continued to deny his conduct. The grievance was therefore dismissed and the discharge upheld.</p>
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Title	<b>Shackleton v. Knittle</b>
Citation	1999 ABQB 539
Court	Alberta Court of Queen's Bench
Source	QuickLaw
Search terms	ambulance attendant!
Accessed	July 8, 2011
Relevance	Issue was whether paramedics were negligent by allowing a patient to sit in the front seat of the ambulance.
Summary	<p>The plaintiff was tentatively diagnosed as a paranoid schizophrenic at a hospital in Hanna, Alberta and was referred for assessment to a tertiary treatment hospital in Calgary. Two ambulance attendants were to transport the plaintiff for this purpose and to make the patient as comfortable as possible during this lengthy transport they decided to allow the plaintiff to sit in the front passenger seat of the ambulance. Shortly after the trip began the plaintiff grabbed the steering wheel of the ambulance causing the ambulance to collide with an oncoming vehicle, killing an infant passenger in the latter. The plaintiff did this because of a delusional fear for his safety, which had not been disclosed to the ambulance attendants. Following the plaintiff's criminal proceeding he sued the ambulance attendants alleging that their negligence in allowing him to ride in the front seat of the ambulance caused the accident and resultant losses and expenses which he has incurred.</p> <p>The Court, in evaluating the case, applied both the general negligence test and the test for professional negligence.</p>

	<p>When the Court applied the general test of negligence they asked whether a reasonable person should have anticipated that there might be a need to control the actions of the plaintiff. They determined that, given the apparent opinion of the doctor and nurses that there should be no problem with the patient or transport, the reasonable man would not have been expected to foresee risk where trained and experienced people did not.</p> <p>When applying the test for professional negligence the Court first noted that in 1991, when the incident occurred, there was no policy which mandated that patients were not to ride in the front and the evidence showed that at least some paramedics followed the practice of allowing patients up front in certain circumstances. The Court then stated that “acting in concert with an opinion or practice held by a significant fraction of a profession is almost always a defence to a suit for malpractice” and that the only exception arises where the practice of the profession is totally unreasonable. Given that a significant fraction of the profession followed the practice of letting patients ride up front, the remaining question was whether the practice can be characterized as totally unreasonable. With regards to that question, the Court determined that the actions of the defendants can not be characterized as totally unreasonable, given the lack of warning from the medical professionals and the reason the defendants placed the plaintiff in the front seat.</p> <p>Therefore, the Court ultimately dismissed the plaintiff’s action.</p>
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Title	<b>Calgary (City) v. Paramedic X</b>
Citation	[1995] A.J. No. 1224
Court	Alberta Court of Queen’s Bench
Source	QuickLaw
Search terms	emergency medical technician!
Accessed	July 8, 2011
Relevance	Issue is the powers of a Medical Director to control the provision of health services by a paramedic. This decision was overturned by the Court of Appeal, summarized below.
Summary	<p>The City of Calgary brought an application for a declaration as to the powers of a Medical Director to control the provision of health services by a paramedic. The issue arose following the reinstatement of Paramedic X through grievance proceedings when the Medical Director recommended that Paramedic X not provide patient care in any capacity. The core issue in this proceeding was the powers of the Medical Director, appointed under the Emergency Medical Technicians Regulation passed under the Health Disciplines Act.</p> <p>The Court declared that the Medical Director, in exercising his function under the Health Disciplines Act and the Regulation, did not have the power to deprive Paramedic X of the right to provide patient care. While, pursuant to the provision of the Emergency Medical Technicians Regulation, an emergency medical technician could not provide health services without the medical control and audit of the Medical Director, the Court declared that this role of the Medical</p>

	<p>Director was limited to devising methods and procedures for carrying out the services, giving advice and directions in a specific case, and reviewing the way in which a specific case was managed by a paramedic or paramedic team.</p> <p>The Court held that providing Medical Directors with the power to prohibit a registered member of a designated health discipline from performing prescribed services is not consistent with the overall scheme of the Act because the Act already provides for a mechanism to regulate paramedic competency. The Health Professions Act provides a scheme under which a paramedic is required to be a member of a health discipline association, which is required to establish a competency committee empowered to deal with complaints or evidence that the conduct, skill, judgment or fitness to practice of a registered member poses a significant risk to the public. The Act sets out a system for the professional association to receive complaints or act on its own initiative to investigate matters of incompetence and empowers them to issue penalties ranging from a reprimand to the cancellation of the right to practice.</p>
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Title	<b>Calgary (City) v. Paramedic X</b>
Citation	[1999] 3 W.W.R. 509
Court	Alberta Court of Appeal
Source	QuickLaw
Search terms	emergency medical technician!
Accessed	July 8, 2011
Relevance	Issue is the powers of a Medical Director to control the provision of health services by a paramedic. This decision overruled the previous decision and established that Medical Directors, in Alberta, have the power to prohibit a paramedic from performing health services listed in the regulations to the Act.
Summary	<p>The City of Calgary appealed a decision, which declared that the powers of a Medical Director did not extend to having the authority to restrict a paramedic's ability to provide patient care. The trial judge concluded that any authority to prohibit a paramedic from performing a prescribed service, as listed in sections 11 and 12 of the Regulations, was inconsistent with the scheme of the Act, which gave the Association the authority to deal with matters of competence of its registered members. The City now brings this appeal, arguing that the legislation was broad enough to permit the Medical Director to restrict all patient contact and that the legislation set up an overlapping jurisdiction between the Medical Director and the Association regarding competency questions.</p> <p>The Court of Appeal granted the appeal holding that a Medical Director had the authority to restrict a paramedic's contact with patients by prohibiting the paramedic from providing the health services enumerated under section 11 and section 12 of the Regulations, which list the health services that paramedics must perform under the supervision of a Medical Director. While the Court acknowledged that any such restrictions could have employment issues, such restrictions did not mean that a paramedic cannot work as a paramedic, but rather, that the paramedic cannot provide those specific health services. The Court further stated that these powers of a Medical Director do not interfere with the</p>

	overall authority of the Association regarding the competence of paramedics because the former, unlike the latter, does not prohibit a paramedic from carrying out other functions at that job or to provide health services for another employer under the control of another Medical Director.
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Title	<b>Peace Regional Emergency Medical Services Society v. Health Sciences Assn. of Alberta (Wilson Grievance)</b>
Citation	[2003] A.G.A.A. No. 67
Court	Alberta Grievance Arbitration
Source	QuickLaw
Search terms	emergency medical technician!
Accessed	July 8, 2011
Relevance	Paramedic being terminated from his employment because of inappropriate physical contact with three female co-workers
Summary	The Grievor, a paramedic with four years of service, was terminated for inappropriate physical contact with three female co-workers. The Grievor grieved his dismissal and denied the allegations that he provided unsolicited massages to two female dispatchers and groped a female paramedic's breasts and buttocks. The Board found that the issue came down to the credibility of the Grievor versus the complainants and believed the allegations of the three female employees. The Board noted that cases of sexual harassment in the workplace have an immediate and corrupting effect on the employment relationship and there is little room left to mitigate the penalty. Additionally, the Grievor's inability to admit to his indiscretions closed off any window that may have existed to reconstitute the employment relationship. Therefore, the Board unanimously decided to dismiss the grievance.

Title	<b>R. v. Burns</b>
Citation	[1993] A.J. No. 998
Court	Alberta Provincial Court -- Criminal Division
Source	QuickLaw
Search terms	paramedic! AND negligence or negligent
Accessed	July 8, 2011
Relevance	Criminal prosecution of an individual for uttering a forged document. The individual fabricated their credentials to secure various positions of employment, including as a teacher responsible for training paramedics.

Summary	<p>This proceeding related to the sentencing of a 40 year-old offender convicted of uttering a forged document. The accused had falsified her resume by inflating her credentials, claiming to be qualified as a medical doctor and to have a Ph.D. in medical science, to secure teaching positions at various universities and colleges.</p> <p>The Court weighed mitigating factors, including an early guilty plea and the fact that she had no prior record, against aggravating factors, including the fact that the misrepresentation extended over nearly 13 years and escalated over time, the fact that the offence affected a broad spectrum of victims, and that there were potentially serious consequences to the public arising at the hands of paramedical caregivers who may have been taught incorrect procedures by the convicted offender. The Court was of the view that the offence was a serious one, calling for general deterrence, and therefore determined that incarceration was appropriate and sentenced the convicted offender to four months incarceration.</p>
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### **British Columbia**

Title	<b>British Columbia Ambulance Service v. Ambulance Paramedics of British Columbia (Snider Grievance)</b>
Citation	[2003] B.C.C.A.A.A. No. 69
Court	British Columbia Collective Agreement Arbitration
Source	QuickLaw
Search terms	emergency medical attendant!
Accessed	July 11, 2011
Relevance	Issue was whether a paramedic committed the alleged incident of patient verbal abuse.



Summary	<p>The employer imposed a four-day suspension on the Grievor, an emergency medical attendant, for allegedly being verbally abusive to a patient. The Grievor brought this grievance denying any misconduct and arguing that the discipline was imposed without just cause. The alleged misconduct as stated in the patient's written complaint consisted of the allegations that the Grievor called the patient an "idiot", said "women complain too much", referred to the patient as a "young puppy", accidentally hit the patient on the head with a medical bag, complained that he "hate this [explicit] [redacted] [apartment building]", and generally acted in a very rude and abrasive way towards the patient.</p> <p>The Board agreed with the Employer that if the conduct alleged were to be proven it would constitute a serious act of patient abuse. Hence, the issue raised is whether the Employer was able to prove the misconduct to the degree of probability required. Given that the Grievor is a senior paramedic with an unblemished work record of more than 12 years and the fact that the driver's testimony supports the grievor's contentions, the Board concluded that the patient likely misconstrued innocent comments made by the Grievor. Therefore, the Board granted the grievance and awarded the Grievor compensation for his lost wages and to have all references to the discipline removed from his personnel file.</p>
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Title	<b>Emergency Health Services Commission and Ambulance Paramedics of British Columbia, CUPE Local 873</b>
Citation	[1997] B.C.C.A.A.A. No. 752
Court	British Columbia Collective Agreement Arbitration
Source	QuickLaw
Search terms	emergency medical attendant!
Accessed	July 11, 2011
Relevance	Issue was whether an employer had grounds for dismissing a paramedic for allegedly cheating on an employment upgrading exam

Summary	<p>This dispute involves a paramedic grieving their termination for allegedly cheating during an off-duty employment-related qualification exam. The Grievor wrote the Emergency Medical Attendant III classification exam and an exam proctor noticed and confiscated from the Grievor a writing pad containing hand-written notes, which the employer concluded were "cheat sheets". The employer discharged the Grievor and the Grievor filed this grievance alleging unjust termination on the basis that he was off duty, the absence of any clear direction or rule restricting material which could be used in the examination, and given the circumstantial character of the Employer's evidence.</p> <p>Given the fact that some instructions implied the exam was closed book and the Grievor had previously written several similar examinations, the Arbitrator determined that the Grievor was aware that he was not entitled to access extrinsic notes to assist him during the exam. Following this finding the Arbitrator examined the Grievor's explanation for why the writing pad was on his desk and determined that the explanation was not plausible. Having found misconduct, the Arbitrator turned his attention to the question of whether a discharge was excessive in the circumstances.</p> <p>The Arbitrator stated that paramedics are largely unsupervised and treat members of the public in the most vulnerable circumstances and as such an employer is entitled to expect and insist upon the highest degree of trustworthiness from its employees. An employee 'who has demonstrated a lack of integrity in other respects cannot be trusted to adopt a different moral code when treating patients'. Therefore the Arbitrator concluded that having regard to the nature of the employment responsibilities, the degree of trust the Employer reposes in a paramedic, the nature of the Grievor's misconduct, his previous acts of dishonesty leading to a suspension of 18 months, and the Grievor's lack of candour in these proceedings, that it would be unfair to require the Employer to maintain the Grievor's employment. Accordingly, the grievance was dismissed</p>
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Title	<b>Emergency Health Services Commission v. C.U.P.E., Local 873</b>
Citation	[1987] B.C.C.A.A.A. No. 342
Court	British Columbia Collective Agreement Arbitration
Source	QuickLaw
Search terms	emergency medical attendant!
Accessed	July 11, 2011
Relevance	Issue was whether a paramedic provided the appropriate standard of care when treating a patient and, if not, whether it was grounds for dismissal
Summary	<p>An Emergency Medical Assistant II was dismissed for allegedly providing unsatisfactory care of a patient and for failing to have an EMA licence, which he lost for providing unsatisfactory care to that same patient. The emergency medical assistant grieved his dismissal alleging that in the circumstances dismissal was an excessive response.</p> <p>The arbitrator first considered whether the Grievor was guilty of any misconduct when responding to the patient, who was suffering from an overdose. In particular, whether the Grievor negligently failed to insert an airway, administer</p>

oxygen, suction the patient's mouth, and recognize the patient was in arrest. Each issue will be discussed in turn:

1. Failure to insert an airway
  - Expert witnesses testified that with a vomiting patient the Grievor was correct to not insert an airway
2. Failure to administer oxygen
  - While the Grievor did administer oxygen through an untaught technique known as a 'gravity wave', the expert witnesses testified that they too have used the 'gravity wave' technique in similar circumstances, despite it not being officially taught.
  - With regards to the issue of using untaught techniques the Arbitrator said "To the extent that such procedures are inconsistent with training at the Justice Institute this is a proper matter for concern on the Employer's part. It indicates a widespread need for correction of employee behaviour. It does not indicate that the first employee who is discovered to be using such procedures should be dismissed."
3. Failure to suction patient's mouth
  - The expert witnesses agreed with the Grievor's judgment call to use a swab rather than suction equipment to clear the patient's mouth.
4. Failure to notice patient was in arrest
  - The Arbitrator was satisfied that the Grievor was sufficiently attentive to the patient in the ambulance and that the arrest likely occurred following the ambulance's arrival at the hospital. However, the arbitrator concluded that the Grievor was not sufficiently attentive to the patient during the approximately 3 minutes between the arrival of the ambulance at the hospital and the discovery that the patient had stopped breathing. This determination was uncontroversial as the Grievor conceded that he did not monitor the patient as he should have during this time.

Given that the paramedic's lack of attention after arriving at the hospital was the only aspect of the treatment that warranted discipline, Arbitrator found discharge to be excessive having regard to the Grievor's exemplary 14 year work history. Therefore, the employer was ordered to reinstate the Grievor.

The Arbitrator then considered the employer's argument that the arbitrator lacked the jurisdiction to make a reinstatement order because the issue of the Grievor losing his licence falls outside the scope of the collective agreement. It was determined that the Commission acted prematurely by revoking the Grievor's licence for the same issue that could be grieved because the revocation of a licence in such circumstances would have the effect of making grievance rights illusory. Therefore, the Arbitrator held that the revocation of the Grievor's licence was impermissible because it was premature.

Title	<b>Emergency Health Services Commission v. Ambulance Paramedics of British Columbia, Canadian Union of Public Employees, Local 873 (Lalli Grievance)</b>
Citation	[1986] B.C.C.A.A.A. No. 86
Court	British Columbia Collective Agreement Arbitration
Source	QuickLaw
Search terms	ambulance attendant! AND misconduct
Accessed	July 11, 2011
Relevance	Issue was whether a paramedic provided the appropriate standard of care when treating a patient and, if not, whether it was grounds for discipline
Summary	<p>An ambulance attendant, was given a letter of reprimand for giving care below the required standard to an elderly patient. The ambulance attendant denied having done so and filed this grievance.</p> <p>It was alleged that in responding to an elderly patient who fell out of their bed at a nursing home, and potentially fracturing their leg or hip, the Grievor fell short of the standard of care required of them by:</p> <ul style="list-style-type: none"> <li>• having the patient stand up and weight bear,</li> <li>• using the fore and aft lift,</li> <li>• handling the patient roughly and unsafely and by displaying a brusque and uncaring manner,</li> <li>• not splinting his patient before transporting her, and</li> <li>• failing to complete the crew report by not filling in the stated destination on the form</li> </ul> <p>An expert witness, who is in charge of training paramedics of the Grievor's level (EMA II), testified that he did not find fault with the removal of the patient from her room to the stretcher by the fore and aft lift method. He also testified that it is contrary to what EMA II's are taught to have a patient stand up where the patient is suspected of a fracture of the hip because of the possibility of vascular damage. As such, the Arbitrator agreed that the Grievor erred by requesting the patient stand. With regards to the splinting, the Arbitrator, based on the expert evidence, concluded that the Grievor was trained to splint suspected hip fracture cases, where possible, before they are moved and while it was possible for the Grievor to do so but he delayed splinting until the patient was in the ambulance. Therefore, he fell below the standard of care directed by his training, however, evidence from other ambulance attendants as well as numerous crew reports indicated that not all suspected hip fracture cases are splinted in practice. Additionally, having regard to the conflicting testimonies the arbitrator concluded that the weight of evidence does not support the conclusions stated in the letter of reprimand that the Grievor was less than gentle and his projected manner was brusque and uncaring. Finally, the Grievor admitted that the crew report he turned in was deficient in that it omitted the name of the hospital to which the patient was taken.</p> <p>Counsel for the Grievor argued that the Grievor was singled out for discipline because of the fact that the patient's son is a cabinet minister. While the Arbitrator was satisfied on the evidence that the Grievor did have the patient stand up, did</p>

	not splint her when he should have, and failed to fully complete the crew report, that based on the various crew reports presented, which showed similar incidents of misconduct that were not disciplined, that the imposition of discipline on the Grievor was out of the ordinary. Even the Chairman of the Union's Standards of Practice Committee, which administers a peer review program with the approval of the Commission, expressed the opinion that the Grievor's conduct was properly a case for referral to that Committee and, he implied, not for discipline. The arbitrator ultimately concluded that "that if the identical circumstances, save the peculiar one, had occurred [the Grievor] would not have been disciplined. The peculiar circumstance I refer to is the patient being the mother of a cabinet minister". Therefore, it was ordered that the letter of reprimand be withdrawn.
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Title	<b>Edgar v. Richmond (Township)</b>
Citation	[1991] B.C.J. No. 598
Court	British Columbia Supreme Court
Source	QuickLaw
Search terms	ambulance attendant! AND misconduct
Accessed	July 11, 2011
Relevance	Issue of whether paramedics were negligent for following protocol under the circumstances and waiting for the arrival of police before entering the premises
Summary	<p>This is an action in negligence against the emergency dispatchers, ambulance attendants, and police officers that responded to a 911 call that left the plaintiff a permanent quadriplegic. The circumstances of the 911 call were as follows: the plaintiff's mother called 911 because her daughter was "going crazy"; the dispatcher alerted the paramedics and police of the situation; the paramedics arrived in approximately 10 minutes and awaited the arrival of the police officers as was procedure for dealing with Mental Health Act patients; the police officers arrived 25 minutes after the 911 call was made and were led up to the plaintiff's bedroom where she had locked herself in; shortly after plaintiff jumped out of her bedroom window and suffered the injuries complained of.</p> <p>The action against the ambulance attendants was based on the allegation that failed to respond properly to the 911 emergency call. Specifically, that they were negligent in failing to enter the household until the arrival of the police officers. The Court concluded that this was not conduct that could be faulted because superimposed upon ambulance attendants are the provisions of the Mental Health Act, which prevent them from seizing a person who refuses to or is incapable of voluntarily surrendering themselves. The ability to seize or subdue a person under the Act is left with police officers and there are clear reasons in the public interest why this is so. The ambulance attendants are powerless to act until the premises and persons are secured by the attending police. As such, the Court ruled that these defendants were acting in accordance with a statutory duty imposed upon them and in accordance with their public duty and therefore the plaintiff is unable to establish a case in negligence against them.</p>

Title	<b>R. v. Husereau</b>
Citation	[2009] B.C.J. No. 571
Court	British Columbia Provincial Court
Source	QuickLaw
Search terms	ambulance attendant! AND misconduct
Accessed	July 11, 2011
Relevance	Criminal proceeding relating the a paramedic being accused of sexually assaulting a 12 year old patient in the back of the ambulance
Summary	Criminal trial of an ambulance attendant charged with the sexual assault of a 12-year-old boy allegedly committed in the back of an ambulance during a physical examination. The accused argued that he touched the complainant's genitals as part of an examination to determine if he was suffering from abdominal pain. The Court found that the accused was not a credible witness and that the accused's explanation for why he touched the complainant was not reasonable given the circumstances because the child did not appear to require the examination performed by the accused. As such, the Crown established beyond a reasonable doubt that the touching was for a sexual purpose and the accused was found guilty.

Title	<b>R. v. M.E.H.</b>
Citation	[2009] B.C.J. No. 2053
Court	British Columbia Provincial Court
Source	QuickLaw
Search terms	ambulance attendant! AND misconduct
Accessed	July 11, 2011
Relevance	Sentencing of accused in R. v. Husereau. Case mentions that paramedic lost his job as a result of his conviction.
Summary	This decision was the sentencing of the ambulance attendant in the above R. v. Husereau case. The Court concluded that considering the need for deterrence and denunciation, a sentence of 90 days' duration would be appropriate in this case followed by a 3 year probation and sex offender registration. The Court also considered the fact that the accused had already paid a hefty price by losing his employment as a result of the conviction.

Title	<b>Davidson v. British Columbia</b>
Citation	[1996] 1 W.W.R. 137
Court	British Columbia Supreme Court
Source	QuickLaw
Search terms	ambulance attendant! AND negligence or negligent AND "standard of care" AND professional or profession
Accessed	July 11, 2011
Relevance	Whether paramedics acted negligently by failing to adequately inform the patient, in specific terms, of the risks associated with refusing medical treatment
Summary	<p>The 52-year-old plaintiff fell, while drunk, on an escalator and suffered a closed head injury. When the paramedics arrived the plaintiff's vital signs were normal and the paramedics attempted to take the plaintiff to the hospital but he became aggressive and agitated. They told him that he had a head injury and should go to the hospital to be examined, but he refused and they could not reason with him. While the precise words they used were beyond recall it was generally that head wounds are a concern and should be checked out by a doctor at a hospital to be on the safe side. In trying to persuade the plaintiff they did not attempt to specifically, in medical terms, explain to him the risks involved. They ultimately gave up but took him home to make sure that he got there safely. The next day the plaintiff's wife found him in a coma caused by an intracranial haematoma. The plaintiff is now suing the two ambulance attendants on the scene and the Crown as their employer, for damages for injuries he suffered. He claimed that the ambulance attendants were negligent in that when he refused to go to the hospital they failed to adequately inform him of the risks associated with a head injury and in not informing his wife of those risks when they dropped him off at home. The defendants argue that they provided the standard of care required of them and acted reasonably in the circumstances. Nowhere in their training were they told to inform patients of any risks attendant upon the circumstances.</p> <p>The Court dismissed the action holding that the defendants acted reasonably in the circumstances and carried out their duties at the scene in accordance with the standards of their training. In particular the Court held that the paramedics fulfilled their duties by both treating the patient appropriately, advising he proceed to the hospital, and essentially performing all that reasonable men in their position with their training could do since they could not be expected to enter into the realm of medical theory nor did the circumstances call for extreme or invasive measures to be taken to force him into hospital against his will. The Court further stated that the implication of risk must have been visible to the plaintiff and that the tragic outcome was brought on by the stubborn intransigence of the plaintiff. With regards to whether the paramedics acted negligently by not appraising the plaintiff's wife of the situation, the Court held that there was no duty on them to seek out third parties for the purpose of informing them of what had occurred and the Court refused to recognize that the well intentioned act of escorting an intoxicated man home for his own safety results in a duty to inform the occupants of his home.</p>

Title	<b>Daley v. Emergency and Health Services Commission</b>
Citation	[2008] B.C.H.R.T.D. No. 63
Court	British Columbia Human Rights Tribunal
Source	QuickLaw
Search terms	paramedic! AND misconduct
Accessed	July 11, 2011
Relevance	Issue was whether an employer discriminated against a paramedic on the basis of disability. The disability in question was post-traumatic stress disorder and developed from an incident where a patient died. In that incident the paramedic was disciplined for not providing adequate care.
Summary	<p>This case follows the aftermath of an incident where a paramedic's patient had died shortly after being transported to the hospital (the "Rutherford Incident"). The paramedic was disciplined following the incident and did not dispute the disciplinary measures imposed on him for his judgment calls to remove oxygen and cancel the Advanced Life Support unit, which were decisions that contributed to the patients death. Following the incident the paramedic eventually developed post-traumatic stress disorder, depression, and anxiety and now the paramedic alleges that his employer is discriminating against him on the basis of disability, contrary to s. 13 of the <i>Human Rights Code</i>. Specifically, the paramedic alleges that his employer harassed and otherwise discriminated against him in numerous ways during the course of his employment, including: requiring him to attend meetings; threatening and harassing him in the meetings he attended; denying or delaying his benefit payments; failing to make reasonable enquiries about his ability to work; making financial threats to undermine his confidence and health; and imposing discipline on him for minor matters which were arguably related to his disability. Additionally, he alleges that his employer fired him for failing to return to work on November 13, 2004, and that that firing was due in whole or in part to his mental disability. Ultimately, he argues that his employers systemically discriminate against mentally disabled employees on the basis of the belief that anyone with depression, anxiety and PTSD should not be a paramedic.</p> <p>The Tribunal, upon examining the evidence, concluded that the evidence, taken as a whole, did not substantiate any of these allegations. Therefore, the Tribunal concluded that the paramedic had failed to establish a <i>prima facie</i> case of discrimination on the basis of mental disability and dismissed his complaint.</p>



Title	<b>Emergency Health Services Commission and Ambulance Paramedics of British Columbia, CUPE Local 873 (Belway Grievance)</b>
Citation	[1998] B.C.C.A.A.A. No. 250
Court	British Columbia Collective Agreement Arbitration
Source	QuickLaw
Search terms	paramedic! AND misconduct
Accessed	July 11, 2011
Relevance	Issue was whether a paramedic's suspension for falsely reporting a patient's condition to dispatchers was excessive in the circumstances.
Summary	<p>The facts giving rise to this case may be summarized as follows: on January 5, 1997 the Grievor and his partner were dispatched "Code 3" to an apartment where a man had fallen down; upon arrival, the Grievor found that the situation was not a Code 3 emergency, but, rather, involved a mere ankle injury; the Grievor, however, advised the Dispatcher that they were enroute to the Vancouver General Hospital with a traumatic arrest; as a result of the Grievor's information, the Dispatcher contacted the hospital and advised a traumatic arrest was being brought in and the hospital staff responded by preparing for this emergency prior to the arrival of the ambulance; the next day a complaint was filed with respect to the Grievor's "false alarm" and shortly after the Grievor was suspended for 2 days. The Grievor grieves this suspension, alleging that it is an excessive disciplinary response.</p> <p>The Arbitrator accepted that the Grievor's conduct did give rise to just cause for some measure of discipline because an integral part of the job of an ALS paramedic involves the accurate communication of assessments. However, it was determined that a 2 day suspension was an excessive response because while the Grievor did commit a serious wrongdoing, the incident at the hospital would, in all likelihood, not have occurred had the Dispatcher followed proper procedure. Put another way, by all accounts the Dispatcher must share the blame for the incident because they initially called for a Code 3, failed to seek additional information upon hearing the Grievor state the patient's condition as a traumatic arrest, and did not advise the Grievor he had notified the hospital of the stated emergency. These omissions were contrary to established policy and allowed the situation to escalate to the point that it did. Given that like incidents should be punished similarly and the dispatcher received no disciplinary action, the Arbitrator decided a 2 day suspension was excessive. Further mitigating factors included that fact that the Grievor was a long term solid employee, with a clean disciplinary record, and a number of accolades contained in his file. Therefore, based on all the circumstances, the Arbitrator ordered that the suspension be replaced with a written reprimand.</p>

Title	<b>Batrum v. British Columbia</b>
Citation	[2009] B.C.J. No. 1074
Court	British Columbia Supreme Court
Source	QuickLaw
Search terms	paramedic! AND negligence or negligent AND standard of care
Accessed	July 11, 2011
Relevance	Issue was whether a paramedic negligently treated a patient thereby exacerbating the patient's injuries
Summary	<p>Action by the plaintiff against the defendants (2 paramedics and the provincial Crown) for negligence. The plaintiff, age 54, fell from a horse and landed heavily on her right shoulder. She felt considerable pain in her right shoulder and any attempt to shift her arm was extremely painful. Paramedics arrived on the scene and the plaintiff testified that the paramedic forced her injured arm from its initial position to across her body, causing extreme pain. The plaintiff alleges that a paramedic negligently moved her injured arm in a manner that caused nerve injury. The paramedic testified that he did not move the arm more than half an inch.</p> <p>The Court found that the plaintiff's evidence regarding the position of her arm upon arrival of the paramedics was inconsistent with other evidence, changed over time, and was unreliable. Based on the evidence of bystanders, the paramedic was unnecessarily rough, unprofessional and unsympathetic in his treatment of the plaintiff. However, the paramedic met the standard of care for treatment of a dislocated shoulder with possible spinal injury as the paramedic splinted the plaintiff's arm in the position that he found it. Therefore, the Court dismissed the action.</p>

## **Manitoba**

Title	<b>Harder Estate (Re)</b>
Citation	[2003] M.J. No. 315
Court	Manitoba Provincial Court
Source	QuickLaw
Search terms	paramedic! AND risk
Accessed	June 17, 2011
Relevance	Issue of whether the City, in not employing enough paramedics certified to administer drugs to children, contributed to the death of a child.
Summary	Inquest to determine the circumstances of five-year-old Harder's death and to determine what could be done to prevent similar deaths from occurring in the future. The inquest considered the role of many factors, including lifeguard certification and public pool regulations, but only the aspects of the inquest that relate to paramedics will be discussed.

	<p>Harder was found floating face down in the shallow end of a City pool and the paramedics who arrived in scene failed in their efforts to resuscitate Harder. Normally epinephrine would be administered to someone in cardiac arrest, like Harder, but only a level three paramedic could do so in the case of a child. Since the only level three paramedic on duty at the time was on the other side of the City, it was faster for the ambulance to take Harder to the Hospital rather than wait for a level three paramedic. While it is impossible to know if it would have made a difference in the outcome, the fact remains that if a level three paramedic had been available the epinephrine would have been administered at least ten minutes earlier than it was.</p> <p>The inquest concluded, in relation to this issue, that for a city the size of Winnipeg only having 10 level three paramedics was insufficient and the City should increase the number of paramedics with this training and, ideally, most if not all City paramedics should be level three certified.</p>
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Title	<b>Bodnarek v. Health Sciences Centre</b>
Citation	[2004] M.J. No. 401
Court	Manitoba Court of Queen's Bench
Source	QuickLaw
Search terms	ambulance attendant!
Accessed	June 17, 2011
Relevance	Issue was whether a plaintiff was unnecessarily delaying an action against the defendant alleging that paramedics, in the defendant's employ, negligently failed to take the plaintiff to the hospital.
Summary	<p>This is a motion by the defendant Health Sciences Centre (the "defendant") to dismiss the appeal of the plaintiff from a decision of the Master dismissing the plaintiff's claim due to delay. The defendant seeks to dismiss the appeal on the same basis that it sought successfully to dismiss the claim, that is, that the plaintiff has delayed in pursuing it.</p> <p>The facts giving rise to this case may be summarized as follows: on June 19, 1997, the plaintiff called the City of Winnipeg Ambulance Service when she was unable to remove herself from the bathtub while taking a bath; she claims that the ambulance attendants proceeded to lift her out of the bathtub and place her on the bed but did not take her to the hospital; when the back pain and numbness continued, the plaintiff's husband took her to the Hospital where she was admitted and diagnosed with a spinal epidural abscess; she underwent surgery to remove the abscess but was left with severe neurological damage. The plaintiff filed a statement of claim wherein the Plaintiff claims that the City of Winnipeg is vicariously liable for the negligence of the ambulance attendants for failing to take the plaintiff to the hospital for further assessment. Since filing the statement of claim, no steps whatsoever have been taken by the plaintiff to pursue her claim. In February 2003, the defendant successfully brought a motion to dismiss on the basis of delay. The plaintiff appealed the decision on the motion and after prolonged delays in setting the matter down for appeal the defendant filed to dismiss the appeal based on delay.</p>

	<p>The Court considered whether the plaintiff unreasonably delayed the prosecution of this action and whether the delay was reasonably justified. In so doing, the Court determined that while the plaintiff has suffered from many personal difficulties during the past seven years (medical problems, financial problems, child taken by Child and Family Services), there was no reasonable justification for the delay in this case. Therefore, the Court granted the Defendant's motion to dismiss the appeal.</p>
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## **New Brunswick**

Title	<b>Canadian Union of Public Employees, Local 1252 v. Region 7 Hospital Corp. (Butler Grievance)</b>
Citation	[2000] N.B.L.A.A. No. 20
Court	New Brunswick Labour Adjudication
Source	QuickLaw
Search terms	emergency medical technician!
Accessed	June 17, 2011
Relevance	Issue was whether a paramedic reporting for duty with alcohol on his breath is grounds for dismissal in the circumstances
Summary	<p>A paramedic grieved his dismissal, which was based on him reporting to work with alcohol on his breath, as being unjust and seeks reinstatement. On the morning of January 30, 2000, a passenger train derailed and the Grievor was paged and responded to the emergency situation despite having celebrated his birthday the night before and consumed about a pint of vodka. The smell of alcohol was detected on the Grievor's breath and he was subsequently dismissed. This incident was not the first occasion in which the employer linked the Grievor with alcohol consumption:</p> <ul style="list-style-type: none"> <li>• On May 4, 1998, the Grievor received a verbal warning for having alcohol on his breath while at work.</li> <li>• On August 12, 1998, the Grievor received a second warning for having alcohol on his breath while at work.</li> <li>• On October 13, 1998, the Grievor was again found to have the smell of alcohol on his breath while at work. This time, the employer responded with a one day suspension with pay and a letter of reprimand.</li> <li>• On December 8, 1998, the Grievor again reported to work with the smell of alcohol on his breath. The employer issued another letter of reprimand and a one day suspension, this time without pay.</li> <li>• On January 2, 1999, the Grievor again reported to work with the smell of alcohol on his breath. He voluntarily took a blood alcohol test which revealed that he was legally intoxicated. The employer issued a letter of reprimand and a 3 day suspension.</li> <li>• On March 18, 1999, the employer wrote to the Grievor informing him that there was reason to suspect that he reported to work on March 11, 1999 with the smell of alcohol on his breath but that no disciplinary action would</li> </ul>

	<p>be imposed due to the lack of confirmation of the incident.</p> <p>Since his dismissal, the Grievor has completed an extended alcohol treatment program, is seeing a counsellor, attends Alcoholics Anonymous, has no desire to consume alcohol, and is more communicative with his family.</p> <p>The Arbitrator concluded that the employer had clearly satisfied its burden of proof that the Grievor reported to work under the influence of alcohol and was deserving of disciplinary action. Given that the employer acted with compassion by following progressive discipline, offering appropriate treatment to the Grievor to address his alcohol problem, and repeatedly and clearly brought the discipline policy to the Grievor's attention, the Arbitrator concluded that such conduct was deserving of sanction and that there was just cause for dismissal.</p>
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Title	<b>Canadian Union of Public Employees, Local 1252 v. Atlantic Health Sciences Corp. (Mesereau Grievance)</b>
Citation	[2009] N.B.L.A.A. No. 11
Court	New Brunswick Labour Adjudication
Source	QuickLaw
Search terms	emergency medical attendant!
Accessed	June 17, 2011
Relevance	Issue was whether additional qualification requirements for a paramedic position were valid.
Summary	<p>The Grievor filed a grievance after he was denied a job position, despite being the most senior candidate, on the grounds that he lacked the formal qualifications. The qualifications included education and experience related to medical/surgical care, medication administration, phlebotomy and physical assessment. The Grievor had not yet upgraded his education to include courses in phlebotomy and medication administration. The Grievor, as the most senior applicant, alleged that he ought to have been awarded the position.</p> <p>The Arbitrator concluded that the additional skills of the posted positions were reasonable, relevant and created in good faith. Since the additional skills were not required by the Grievor to maintain his current employment the employer was not obligated to award the Grievor the position and allow him time to upgrade his education. Therefore, the grievance was dismissed.</p>

Title	<b>Price v. St. John Ambulance, New Brunswick Council</b>
Citation	[1997] N.B.J. No. 169
Court	New Brunswick Court of Queen's Bench - Trial Division
Source	QuickLaw
Search terms	ambulance attendant!
Accessed	June 17, 2011
Relevance	Issue was whether St. John Ambulance correctly expelled a student from their ambulance attendant course for allegedly cheating.
Summary	Application for judicial review of a decision by St. John Ambulance to expel the applicant from the ambulance attendant course for allegedly cheating in an examination. The Court first determined that it had jurisdiction to deal with the matter since St. John Ambulance was an emanation of the Legislature and obtained funding from the Province. Then moving onto the issue in the case, the Court quashed the decision because St. John Ambulance breached the rules of natural justice by not advising the applicant of the case she had to meet and by failing to advise the applicant of statements made by the other students.

Title	<b>R. v. Léger</b>
Citation	[1999] N.B.J. No. 43
Court	New Brunswick Court of Appeal
Source	QuickLaw
Search terms	ambulance attendant!
Accessed	June 17, 2011
Relevance	Issue was whether a trial judge erred in convicting a paramedic for sexually assaulting a patient
Summary	Appeal by Leger, an ambulance attendant, from a conviction for sexual assault that allegedly occurred while the victim was a patient in the back of his ambulance. The Trial Judge determined that Leger touched the patient without her consent and that it was with a sexual purpose, but Leger claimed that the trial judge erred in his appreciation of the evidence as well as of the credibility of the witnesses as to whether the assault was sexual in nature and filed this appeal. The Court dismissed the appeal on the basis that the trial judge examined all of the relevant circumstances surrounding Leger's conduct. The Trial judge based his decision on an appreciation of Leger's credibility, which findings were accorded considerable deference by an appellate Court. No error was shown and the conviction was not unreasonable considering the totality of the evidence.

## Ontario

Title	<b>Mattick Estate v. Ontario (Minister of Health)</b>
Citation	[2001] O.J. No. 21
Court	Ontario Court of Appeal
Source	QuickLaw
Search terms	emergency medical attendant!
Accessed	July 13, 2011
Relevance	What initially began as a complaint alleging that paramedics failed to provide the appropriate standard of care when treating a patient turned into an action against the Province for failing to properly train and equip their paramedics.
Summary	<p>The plaintiff's husband suffered a massive heart attack and was transported by emergency medical attendants from his home to the hospital, where he died several days later. The plaintiff complained to the Ministry of Health about the care given to her husband by emergency medical staff. In particular, she claimed that the emergency medical attendants failed to provide her husband cardio-pulmonary resuscitation at the scene and failed to apply defibrillation to him en route to the hospital since the ambulance was not equipped with a defibrillator. The Ministry conducted an investigation and subsequently issued a report which concluded that acceptable patient care had been given to the plaintiff's husband.</p> <p>The Plaintiff ultimately brought an action against the Province alleging that the Province failed to properly train and equip its emergency medical attendants and that this was a material cause of her husband's death. The Province successfully brought a motion to dismiss the action on the basis that the plaintiff had failed to provide the statutorily mandated 60 days notice before filing an action. This action was the plaintiff's appeal of the motion to dismiss and primarily concerned the interpretation of the statutory provision that requires 60 days notice before launching an action against the Crown. The plaintiff was successful in her appeal.</p>

Title	<b>Re York County Hospital and S.E.I.U., Local 204</b>
Citation	[1992] O.L.A.A. No. 1307
Court	Ontario Labour Arbitration
Source	QuickLaw
Search terms	emergency medical attendant!
Accessed	July 13, 2011
Relevance	Issue was whether a paramedic reporting for duty with alcohol on his breath is grounds for dismissal in the circumstances.
Summary	An ambulance attendant of 10 years grieved his discharge from the hospital for reporting to duty with alcohol on his breath. There was no suggestion that the Grievor was drinking during the shift, but rather, he admitted to consuming beer prior to his shift and reporting to work and performing his duties while under the influence of alcohol. The dispute in

	<p>this case was whether discharge was an appropriate disciplinary action.</p> <p>Significantly, the Grievor had already received a written warning in 1989 and a 5 day suspension in 1991 for having the smell of alcohol on his breath and being under the influence of alcohol, respectively. However, since the discharge the griver has completely ceased drinking and has accepted AA's "Twelve-Step Program".</p> <p>The arbitrator began by stating that "there can be no tolerance of any employee working under the influence of alcohol in an ambulance service" because it "is hard to imagine any job requiring more acute response faculties and ability to function under stress" and alcohol "could easily endanger the lives of patients and fellow driver/attendants". The Arbitrator therefore reasoned that alcohol abuse by a driver/attendant should be <u>prima facie</u> cause for discharge in this sector of work.</p> <p>Despite these strong words, the arbitrator concluded that there was a strong likelihood of successfully re-establishing the employment relationship given that the Grievor had developed a new found ability to cope with stress and his success at alcoholics anonymous. As a result, the arbitrator decided to conditionally reinstate the Grievor. The conditions attaching to this reinstatement included being alcohol-free, attending AA meetings twice a week, re-establishing his relationship with a rehab program, and to submit himself to a drug test upon his return to duty and when the Hospital has reasonable and probable cause to suspect the presence of alcohol.</p>
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Title	<b>Scheerer v. Waldbillig</b>
Citation	[2006] O.J. No. 744
Court	Ontario Superior Court of Justice - Divisional Court
Source	QuickLaw
Search terms	emergency medical attendant!
Accessed	July 13, 2011
Relevance	Issue was whether a Medical Director's decision to decertify a paramedic was sound.
Summary	<p>In the first case in Ontario or Canada considering the certification or decertification of paramedics, the applicant, Melissa Scheerer, brings this application for judicial review to quash and set aside the decision of the respondent, Dr. David Waldbillig, which decertified Ms. Scheerer as a Primary Care Paramedic and Advanced Care Paramedic under the jurisdiction of the Waterloo-Region-Wellington-Dufferin Base Hospital. As a result of the decertification Ms. Scheerer is not certified to perform her job with any ambulance service under the jurisdiction of the Hospital, which is where she lives and is also obliged to inform any other base hospital of her decertification.</p> <p>The decision to decertify Ms. Scheerer was based on two particular complaints involving Ms. Scheerer's performance as a paramedic. The first complaint originated from a patient who complained that the paramedics failed to examine him and that the signature on the Refusal of Service form for the ambulance call report had been forged. The investigation</p>



that followed concluded that these allegations were likely true and Ms. Scheerer completed a remedial program at the Ministry's request. The second complaint regarded an incident involving Ms. Scheerer's performance as a Primary Care Paramedic although the precise details of this complaint were not addressed by the Court.

The Court dealt with the following issues and made the following conclusions with regard to those issues:

1) Does this Court have jurisdiction to review the decision?

- The Court concluded that it has jurisdiction pursuant to the Judicial Review Procedure Act as Dr. Waldbillig exercised a statutory power in reaching the decision.
- Alternatively, the Court concluded that it has jurisdiction because Dr. Waldbillig, as Medical Director of the Hospital, was a public officer performing a public function.

2) In reaching the decision do the principles of natural justice and procedural fairness apply, and if so, were they respected?

- While it is settled that a duty of procedural fairness lies on a public authority making an administrative decision affecting "the rights, privileges or interests of an individual", the content of the duty of fairness is variable and depends on a number of factors, including: the nature of the decision being made, the nature of the statutory scheme, the importance of the decision to the individual or individuals affected, the legitimate expectations of the person challenging the decision, and the choices of procedure made by the agency itself.
- Given that the decision of Dr. Waldbillig is of utmost importance to Ms. Scheerer, as it affected her ability to be employed as a paramedic in the region in which she resides and impacts her ability to work under the certification of another Base Hospital, the Court had little trouble determining that Ms. Scheerer was entitled to procedural fairness.
- However, the Court concluded that Dr. Waldbillig did meet the requirements of procedural fairness. Ms. Scheerer did receive notice of the investigations, she was given an opportunity to meet with Dr. Waldbillig on two occasions and to respond to them, she provided a written statement in response to the first complaint and signed off on a written statement of her partner in response to the second complaint. Ms. Scheerer was provided with written reasons for the decision of Dr. Waldbillig decertifying her and an opportunity to make full written submissions to the Review Committee, which she did with the assistance of legal counsel.
- While no formal hearing was provided, the Court concluded that this was not required.

3) In particular, did the respondent take into account irrelevant information in reaching the decision?

- Ms. Scheerer contends that Dr. Waldbillig failed to consider all relevant factors and considered irrelevant ones, in reaching the Decision. In brief, he did not consider that issues with respect to the first complaint had been resolved through a remedial program; and he relied on unproven and extraneous matters such as the applicant's alleged termination at a previous employment and the untrue belief that she had been driving having her driver's license suspended.
- The Court noted that when applying the reasonableness standard a Court must review the reasons of the tribunal to ascertain whether any of the reasons support the decision. The Court concluded that Dr. Waldbillig did not place undue importance on extraneous matters and that the reasons in the decision are well-founded and supported by

	<p>the evidence.</p> <ul style="list-style-type: none"> <li>This conclusion was reinforced by the Review Boards assessment. The Review Board explicitly excluded from their consideration the extraneous information relating to Ms. Scheerer's driver's license status and termination of her former employment. However, despite excluding these considerations the Review Board confirmed Dr. Waldbillig's decision.</li> </ul> <p>4) Did the respondent exhibit bias?</p> <ul style="list-style-type: none"> <li>The Court concluded that there was no merit to the contention that Dr. Waldbillig was biased and held that the decisions of Dr. Waldbillig, as confirmed independently by the Review Committee, are reasonable in the context of the case.</li> </ul> <p>The Court concluded that they had jurisdiction to review Dr. Waldbillig's decision to decertify Ms. Scheerer, that Ms. Scheerer was entitled to a duty of fairness, and that the duty of fairness was not breached. Therefore, the Court concluded that there was no substantial wrong or miscarriage of justice and dismissed the application.</p>
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Title	<b>Sensenbrenner Hospital, Kapuskasing v. Service Employees International Union, Local 204 (Mercier Grievance)</b>
Citation	[2002] O.L.A.A. No. 602
Court	Ontario Labour Arbitration
Source	QuickLaw
Search terms	emergency medical attendant!
Accessed	July 13, 2011
Relevance	A paramedic grieved his discharge for failing to pass a program required to comply with the new standards of the Ambulance Act
Summary	The Grievor was working as an ambulance driver when changes to the Ambulance Act and Regulations required paramedics to be EMCA certified and be qualified as emergency medical attendants. The Grievor was not and attempted to upgrade his credentials by registering in the Paramedic Program offered through Cambrian College. Unfortunately, the Grievor failed the program and was subsequently terminated for failing to meet the requirements of a paramedic in accordance with the Ambulance Act. The paramedic grieved unjust termination and the grievance was allowed on the basis that the employer did not establish just cause for discharge since the Grievor had done nothing wrong. The arbitrator held that this case was distinguishable, on that basis, from cases where a paramedic loses their licence or is uninsurable due to bad driving. Therefore, the arbitrator ruled that while the Grievor was no longer qualified to work as a paramedic, there were many other positions and the employer was not prevented by the Ambulance Act or its Regulations from employing the Grievor in any other capacity. Ultimately, the arbitrator concluded that the Grievor was afforded the same rights as any other laid off employee with recall rights.

Title	<b>Re Manitouwadge General Hospital and S.E.I.U., Local 268</b>
Citation	[1992] O.L.A.A. No. 734
Court	Ontario Labour Arbitration
Source	QuickLaw
Search terms	ambulance attendant! AND misconduct
Accessed	July 13, 2011
Relevance	This case concerned whether an employer had just cause to dismiss a paramedic on the basis of several alleged infractions, including a couple of incidents related to patient care and safety including
Summary	<p>A paramedic grieved their dismissal on the basis that the Hospital lacked just cause to terminate their employment. The hospital argued that just cause had been established and raised several infractions which justified dismissal. While the majority of these incidents related to insubordination and causing confrontations with co-workers, a couple of incidents related to patient care and safety including,</p> <ul style="list-style-type: none"> <li>• A written warning for going to the wrong location twice, failing to properly immobilize a leg fracture and improperly treating a spine injury.</li> <li>• A written warning for failing to keep the base well supplied and safe</li> <li>• Two written warnings concerning draining the batteries in an ambulance</li> <li>• Disassembling equipment which compromised patient care. More specifically, the allegation that the Grievor disconnected the oxygen tubing of the suction unit in an ambulance</li> </ul> <p>Ultimately the termination resulted primarily from a single incident, and its subsequent fall out, where the Grievor kicked a wall, engaged in violent behaviour, and made disparaging comments about the manager's religious beliefs. However, the aforementioned incidents played a minor role in the arbitrator's ultimate conclusion that while discharge was severe, it was a reasonable disciplinary measure in the circumstances.</p>

Title	<b>RE Municipality of Metropolitan Toronto and Canadian Union of Public Employees, Local 43</b>
Citation	[1978] O.L.A.A. No. 39
Court	Ontario Labour Arbitration
Source	QuickLaw
Search terms	ambulance attendant! AND misconduct
Accessed	July 13, 2011
Relevance	Issue was whether leaving a patient unsupervised in the back of the ambulance was grounds for discipline
Summary	The Grievor, an ambulance attendant, grieved a 2-day suspension following an incident where a patient was not supervised and therefore unnecessarily endangered. Despite the ambulance attendants being aware that the patient

	<p>had been vomiting and was in danger of aspiration they decided, due to the patient's terminal condition, that it was best to leave the and his wife be alone in the back of the ambulance.</p> <p>The Grievor was the driver during this routine transport and it was his partner who violated s.17 of the Rules and Regulations by sitting in the front cab instead of in the back with the patient. However, the Regulations also stipulate that the driver is in charge of the ambulance and therefore, according to the decision, the Grievor also acted contrary to their duties. As the Arbitrator explained, "The risk of serious injury or even death being ever present, it is the duty of each and every driver attendant to do all that is reasonably possible to minimize such risk and to convey the patient to the nearest hospital as quickly as is possible under the circumstances and to ensure that the patient is given such first aid or emergency medical care as his condition requires and circumstances permit". Therefore, the arbitrator concluded that when the other ambulance attendant did not enter the patient compartment as he was required to do by s. 17 of the Rules and Regulations of the Metropolitan Corporation, a duty arose on the part of the Grievor to forthwith request that his partner ride in the patient compartment while the patient was being conveyed to the hospital.</p> <p>Ultimately, given the Grievor's long (26 year) and excellent work record, and the fact that he was deserving of a lesser penalty than his partner (since he was the driver), the Grievor's the grievance was upheld and the suspension was replaced with a letter of warning.</p>
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Title	<b>Chaszewski Estate v. 528089 Ontario Inc. (c.o.b. Whitby Ambulance Service)</b>
Citation	[2011] O.J. No. 2512
Court	Ontario Superior Court of Justice
Source	QuickLaw
Search terms	ambulance attendant! AND negligence or negligent AND professional or profession
Accessed	July 13, 2011
Relevance	Issue was whether paramedics provided the appropriate standard of care to a patient
Summary	This matter was a motion for summary dismissal by the defendants on the basis that expert evidence addresses the appropriate standard of care for primary care paramedics operating in 1996 and causation issues both of which act to defeat the plaintiff's claim. The plaintiffs', who are the surviving husband and children of Mrs. Chaszewski, claim that the defendants (the attending paramedics) failed to provide appropriate care, ultimately resulting in her demise. The expert evidence filed with this motion makes clear that Mrs. Chaszewski's death was caused by severe coronary artery disease leading to a sudden asystolic cardiac arrest. It was noted that the survival rate in Ontario in 1996 for this medical condition was 0.2 percent and that Mrs. Chaszewski's death was not in any way due to the actions of the defendants. It went further to explain that while the survival for this condition increased to 2.4% when treated by advance care paramedics using IV medications and external cardiac pacing and the defendant's were not trained in

	<p>these procedures, advance care paramedics did not start in Ontario until 1998. While the defendant's also filed expert evidence, it was incomplete and failed to address the expert evidence of the plaintiff's. As such, the Court accepted the evidence that Mrs. Chaszewski would unfortunately have died regardless and that her probability of survival was almost non-existent even if she had received the care suggested by the plaintiffs' experts. The Court concluded that the plaintiff had no prospect for success and granted the defendant's motion to summarily dismiss the action.</p>
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Title	<b>Thomas v. Hamilton Board of Education</b>
Citation	[1990] O.J. No. 147
Court	Ontario Supreme Court - High Court of Justice
Source	QuickLaw
Search terms	ambulance attendant! AND negligence or negligent AND professional or profession
Accessed	July 13, 2011
Relevance	Issue was whether a paramedic negligently treated a patient
Summary	<p>Personal injury action by a 16 year old for injuries sustained during a junior high school football game. The action was against the School Board, for failing to warn the plaintiff of the risk of serious injuries, and the first aid responder on the scene for negligently removing the plaintiff's football helmet and exacerbating the injuries. Both actions were dismissed. With regards to the action against the paramedic, the Court dismissed the action on the basis that it was barred by the six-month limitation period contained in s. 11 of the Public Authorities Protection Act, R.S.O. 1980, c. 406. However, because the plaintiffs argued that the School Board is responsible for the actions of the paramedic the Court had to consider any potential negligence on the paramedic's part to determine liability of the School Board. The Court stated that the paramedic on scene was well-trained and responded appropriately by immobilizing the body and the only issue was whether he should have removed the plaintiff's helmet. While it was agreed by all parties that a fully secured helmet should not be removed, the plaintiff's helmet was partially dislodged and there was no literature on the proper procedure for a partially dislodged helmet. The defendant believed that the plaintiff's head was moving within the helmet, that the helmet was not secure, and that it might fall off while putting the plaintiff on the spinal board. The Court found that the paramedic reasonably exercised his professional judgment and took all the appropriate precautions in so doing. Accordingly, the Court found that there was no negligence on the part of the paramedic and that he acted professionally and responsibly. Alternatively, the Court held that even if the paramedic had acted negligently that, according to the weight of the expert evidence, the extent of movement necessary to remove the helmet would not have caused any further functional damage to the plaintiff's spinal cord.</p>

Title	<b>Canadian Union of Public Employees (Toronto Civic Employees Union), Local 416 v. Lauwers</b>
Citation	[2011] O.J. No. 2028
Court	Ontario Superior Court of Justice - Divisional Court
Source	QuickLaw
Search terms	paramedic! AND misconduct
Accessed	July 13, 2011
Relevance	Issue was whether a Coroner's inquest could examine the issue of whether the paramedic strike affected the delivery of emergency medical services to a patient who died and whether the inquest could examine labour relations matters more broadly, including paramedic's right to strike.
Summary	<p>Application by the Union, Local 416, for judicial review of a decision of the Deputy Chief Coroner relating to the inquest into the death of Hearst. Specifically, the Coroner decided that the inquest would explore the issue of whether the paramedic strike affected the delivery of emergency medical services to Hearst and would also explore labour relations matters such as the right of paramedics to engage in a legal strike. The Union's application is remove these issues from the inquest and to limit the scope of the inquest to the facts and circumstances surrounding Hearst's death.</p> <p>Hearst died of an acute myocardial infarction in June 2009 during a legal strike by Toronto's paramedics and emergency medical dispatchers. Although a 911 call was placed and two primary care paramedics were assigned to the call, the paramedics decided not to enter the location until police arrived due to concerns for their health and safety. As a result, there was a delay of 38 minutes from the time an ambulance was first requested until the paramedics attended the scene. According to a review conducted by The Emergency Health Services Branch Unit of the Ministry of Health and Long-Term Care, this delay was caused primarily by the inappropriate decision made by the paramedics to delay their response because of health and safety concerns.</p> <p>The Court allowed the application in part. The Court first determined that there was sufficient evidence to warrant a consideration of the possibility that the strike played a role in the delivery of emergency services to Hearst. In particular, the strike resulted in a 25 per cent reduction in staffing and caused paramedics to work outside their usual quadrants. The paramedics dispatched to Hearst were working outside their usual quadrant and the operations supervisor did not believe that his normal crews, familiar with the area, would have delayed their response to the Hearst call.</p> <p>However, with regards to the inquest examining labour relations matters, such as paramedic's legal right to strike, the Court concluded that the Coroner did not have the expertise to conduct an inquiry into the highly specialized field of labour relations and an inquest was not the appropriate forum for conducting a broad inquiry into the right of paramedics to strike. Therefore, this issue was excluded from the scope of the inquest.</p>

Title	<b>Ontario (5956-MED) (Re)</b>
Citation	[2010] O.L.A.T.D. No. 101
Court	Ontario Licence Appeal Tribunal
Source	QuickLaw
Search terms	paramedic! AND misconduct
Accessed	July 13, 2011
Relevance	A paramedic lost their drivers licence due to substance abuse problems and appealed the revocation of their licence on the basis that they are undergoing treatment.
Summary	This is an appeal to the Licence Appeal Tribunal by the Applicant, a paramedic, respecting a decision of the Registrar of Motor Vehicles to suspend her drivers licence. The applicant's driver's licence, a condition of her eligibility to work as a paramedic, was suspended on the basis of a medical report and assessment, in which the doctor indicated that the Applicant suffered from the medical condition of Addiction (Alcohol, sedatives, tranquillisers, narcotics, etc). The applicant appealed on the basis she is undergoing treatment and has been drug free for several months. While the tribunal sympathized with the applicant's wish to regain her driver's licence, especially since her livelihood depends on it, the tribunal was concerned about her 2 previous relapses and was of the opinion that a further period of rehabilitation time is required. Therefore, the Tribunal confirmed the Registrar's decision.

Title	<b>Ottawa (City) v. Canadian Union of Public Employees (Lauzon Grievance)</b>
Citation	[2009] O.L.A.A. No. 548
Court	Ontario Labour Arbitration
Source	QuickLaw
Search terms	paramedic! AND misconduct
Accessed	July 13, 2011
Relevance	A paramedic was criminally charged with sexually assaulting a patient and the issue was whether the bail conditions precluded continued employment with the City of Ottawa
Summary	The Grievor, a paramedic with over 25 years of service, was criminally charged for sexual assaulting a patient. The Grievor's bail conditions precluded him from working as a paramedic and the employer placed the Grievor on leave without pay. The union grieved, arguing that the employer had an obligation to find the Grievor a job that he could perform that was consistent with his bail restrictions.

	<p>The Arbitrator acknowledged that the criminal charges were quite serious particularly since the alleged acts took place at work while in a position of trust. However, with respect to the issue of whether the employer should have turned its attention to whether there were any vacant jobs, or jobs expected to become vacant, across the bargaining unit, that the Grievor could perform, the Arbitrator sided with the Grievor. This was, in part, because of the Grievor's longstanding service and exemplary record and the fact that the Grievor is presumed by law, and by management, to be innocent of the charges. Accordingly, the Arbitrator decided that the employer is required to objectively assess the Grievor's skill and abilities and determine what vacant or about to become vacant jobs exist that the Grievor can perform with minimal orientation. It was further held that given the nature of the charges, the Grievor, self-evidently, must receive continuous supervision and cannot have direct access to members of the public.</p>
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Title	<b>Thunder Bay (City) v. Canadian Auto Workers, Local 229 (Melnychuk Grievance)</b>
Citation	[2005] O.L.A.A. No. 472
Court	Ontario Labour Arbitration
Source	QuickLaw
Search terms	paramedic! AND misconduct
Accessed	July 13, 2011
Relevance	Issue was whether a paramedic was justly terminated for a series of infractions including a couple related to safety and patient care.
Summary	<p>The Grievor, a paramedic, alleges unjust termination and requests to be reinstated with full compensation. The Grievor has admitted committing the acts which the employer maintains are the basis or reason for his dismissal. The acts committed by the Grievor include:</p> <ul style="list-style-type: none"> <li>• Stole a prescription sheet while on duty and later attempted to fraudulently obtain a prescription;</li> <li>• Lied to a doctor, while on duty, and improperly obtained a prescription for narcotics;</li> <li>• While performing duties as a paramedic, the Grievor provided false information to a 'Sars' screener and disregarded health &amp; safety and infection control procedures by failing to wear an N-95 mask;</li> <li>• A verbal warning for inappropriate and unprofessional behaviour towards a patient; and</li> <li>• two separate written warnings for failure to follow procedure</li> </ul> <p>The employer argued that these incidents constituted just cause while the union's position was that the Grievor's conduct can be explained by his addiction to a prescribed medication, Percocet. It further took the position that this addiction must be considered a disability under the Ontario Human Rights Code and that the Grievor has taken sufficient steps to rehabilitate himself and based on that should be reinstated.</p> <p>The Arbitrator first emphasized the seriousness of the incidents warranting discipline in order to appreciate the onus</p>



	<p>that rests with the Grievor to convince this Arbitrator that discharge should not flow from that misconduct. The Arbitrator described the Grievor's conduct as including all the elements of breach of trust, theft and abuse of authority and that there has been a very serious breach in the trust relationship that is fundamental in the employment of a paramedic. With the seriousness of the Grievor's misconduct in mind, the Arbitrator then considered the only explanation the Grievor offered with regard to his misconduct (addiction to Percocet) and found a number of difficulties with the Grievor's reliance upon that explanation. Firstly, the employer was not aware, nor should have been, of any substance abuse problem prior to the incidents in question. Second, the Grievor has failed to provide credible evidence that he was in fact addicted to Percocet. The only evidence of such an addiction was the Grievor's own account, yet multiple drug tests did not reveal the presence of the drug. Without proof that the Grievor was suffering from an addiction to Percocet the Grievor is simply unable to establish that they have an illness under the Human Rights Code that requires accommodation by his employer. Third, and more importantly, the Grievor failed to provide expert evidence to establish the nexus between such an addiction and the Grievor's misconduct. The Arbitrator noted the lack of expert evidence suggesting that an addiction to Percocet would remove any inhibitions or control that the Grievor should otherwise have had with respect to the actions he undertook to acquire the drug by fraudulent means. The Arbitrator ultimately concluded that "[i]n the absence of credible evidence of any mitigating factors for his conduct, we do not find any justifiable reason to interfere with the employer's decision to terminate the Grievor's employment".</p>
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Title	<b>Durham (Regional Municipality) v. Canadian Union of Public Employees, Local 1764 (McComb Grievance)</b>
Citation	[2010] O.L.A.A. No. 656
Court	Ontario Labour Arbitration
Source	QuickLaw
Search terms	paramedic! AND incompetence or incompetent
Accessed	July 13, 2011
Relevance	Issue was whether an employer could implement a new requirement for paramedics and, if so, whether that requirement was reasonable
Summary	Two employees, paramedics, grieved that their employer improperly denied them the right to return to their employment following their leaves of absence contrary to the collective agreement and the Ontario Human Rights Code. The employer implemented a new requirement that paramedics must physically demonstrate the ability to operate the stair chair, which was a standard piece of conveyance equipment but used infrequently. The employer decided to implement this new requirement following an incident where a paramedic broke their leg as a result of not operating the stair chair correctly and a Ministry of Labour Inspector recommended, following the incident, that the employer establish a reasonable frequency for training and competency tests. The issue in this award is whether the Employer is permitted to require paramedics to perform this physical test, and if so, whether the test adopted by the Employer is a reasonable test. The test consisted of lifting a stair chair with a weighted dummy up and down two flights of stairs in six different scenarios.

	<p>With regards to the issue of whether the Employer is permitted to require paramedics to perform this physical test, the Arbitrator noted that the Employer is permitted to require a more rigorous testing process than it has required in the past because there is nothing in the collective agreement that limits the Employer's ability to do so and further that the Employer's reasons for adopting the new test are directly related to its responsibilities, powers and functions conferred upon it by statute. Therefore, the Arbitrator saw the dispute to be primarily about the reasonableness of the stair test. The jurisprudence establishes that in order for a test to be considered to be reasonable, it must meet standards of reliability, validity, relevancy and fairness. (See <i>Re Eastern Provincial Airways</i> and <i>Re Riverdale Hospital</i>). The Arbitrator held that the test is reliable and valid in that it accurately reveals whether or not the employee has the ability to operate the stair chair. While the Tribunal acknowledged that the union was correct in their position that a paramedic would never be required to perform all of the scenarios at one time as required by the test, they still concluded that the test is relevant to the real work of the paramedics in the field because the evidence establishes that any paramedic could be faced with any one of the different scenarios included in the test, which makes each of the different scenarios relevant. Therefore the test satisfied the relevant requirement. Finally, the Arbitrator held that the test is fair because the employees know exactly what is expected of them, understand the standard that they are measured against, and the test is given to all employees under the same conditions and by the same group of facilitators. Ultimately, because the test was reasonable the Arbitrator dismissed the grievances.</p>
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Title	<b>McMillan v. The Corporation of the City of Sarnia et al.</b>
Citation	<b>2011 ONSC 5254</b>
Court	Ontario Superior Court of Justice
Source	QuickLaw
Search terms	emergency medical technician!
Accessed	October 9, 2012
Relevance	Two paramedics were sued for negligently treating a patient.

Summary	<p>The plaintiff was, in the course of his employment, involved in a car accident that left him pinned in his vehicle. Members of the Sarnia Fire Department cut open the cab of the plaintiff's truck and removed the plaintiff at which point he was placed on a stretcher and emergency medical personnel began treating him. The plaintiff alleged that the firemen were negligent in extricating him from his truck, which resulted in the cab collapsing and crushing his legs. The plaintiff also sued Todd Martin and Jessica Maitland, the paramedics on the scene, for allegedly being negligent when they treated him after he was removed from the cab. The plaintiff alleges that as a result of the paramedics' negligence he suffered aggravation of his physical and emotional injuries.</p> <p>The defendants, The Corporation of the Town of Lambton, The County of Lambton Emergency Medical Services, Todd Martin and Jessica Maitland move for an order granting summary judgment dismissing the plaintiff's action against them on the grounds that it is barred by s. 28 of the <i>Workplace Safety and Insurance Act</i>, S.O. 1990 c. 16, Schedule A.</p> <p>Section 28 of the <i>Workplace Safety and Insurance Act</i> provides that a worker employed by a Schedule I employer who sustains an injury that entitles him to benefits under the <i>Act</i> is not entitled to commence any action against a Schedule I employer or worker employed by a Schedule I employer. Given that the accident occurred during the course of the plaintiff's employment with a Schedule I employer, the Court held that the plaintiff had no cause of action against The Corporation of the Town of Lambton, The County of Lambton Emergency Medical Services, Todd Martin and Jessica Maitland. Accordingly, the Court dismissed the plaintiff's action as against those defendants.</p>
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Title	<b>Chaszewski v. 528089 Ontario Inc.</b>
Citation	<b>2012 ONCA 97</b>
Court	Ontario Court of Appeal
Source	QuickLaw
Search terms	Paramedic! AND negligence or negligent
Accessed	October 9, 2012
Relevance	Two paramedics were sued for negligently treating a patient.

Summary	<p>Frank Webster and Robert Werner, two paramedics with the Whitby Ambulance Service, responded to a 9-1-1 call that a woman (Mrs. Chaszewski) was choking and was unresponsive. They arrived at the Chaszewski's home promptly, but remained there for at least 12 minutes before transporting Mrs. Chaszewski to the emergency department of the local Whitby hospital. Mrs. Chaszewski went into cardiac arrest while in the back of the ambulance, could not be revived, and was pronounced dead at the hospital.</p> <p>The Chaszewski family sued the two paramedics, the ambulance service and its owner, William Cocker, for negligence. They allege that the paramedics negligently failed to transport Mrs. Chaszewski to the hospital soon enough and that had they done so Mrs. Chaszewski would have survived.</p> <p>The successfully brought a motion for summary judgement to dismiss the claim. The motion judge held that there was no genuine issue for trial because even if the paramedics had breached their standard of care Mrs. Chaszewski would have died anyway (i.e. their negligence did not cause Mrs. Chaszewski's death). The plaintiff's appealed the summary judgment dismissing their action.</p> <p>The Court of Appeal determined that the motion judge erred in relying on the opinion of the defendants' expert, which did not address the plaintiffs' theory of the case. The Court determined that a trial would be required to fully appreciate the evidence on the issue of causation. Accordingly, the Court of Appeal allowed the appeal and set aside the summary judgment granted by the motion judge.</p>
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Title	<b>R. v. Lauzon</b>
Citation	<b>2011 ONSC 7179</b>
Court	Ontario Superior Court of Justice
Source	QuickLaw
Search terms	Paramedic! AND misconduct
Accessed	October 9, 2012
Relevance	The application in this case stems from allegations that a paramedic sexually assaulted a patient in the back of an ambulance while transporting her to the hospital.

Summary	<p>This case concerns an application by Jean Lauzon for an order that the statements made to the Ottawa Police and the Ottawa Paramedic Service (the "OPS") are involuntary and inadmissible. Specifically, Mr. Lauzon is seeking to have the mandatory Incident Report Mr. Lauzon gave to the OPS pursuant to the <i>Ambulance Act</i> and the videotaped statement that he subsequently gave to the Police on June 21, 2009 declared inadmissible.</p> <p>Mr. Lauzon is a paramedic who received a call that the complainant was having a stroke. It is alleged by the complainant that Mr. Lauzon sexually assaulted her in the back of the ambulance while he was treating her on route to the hospital. Upon arriving at the hospital the complainant disclosed her allegations against Mr. Lauzon to two nurses. At this point Mr. Lauzon was required to complete an incident report. Six hours later, after being cautioned and receiving the advice of counsel, Mr. Lauzon made a videotaped statement to the Police to record his version of events.</p> <p>The Court held that the Incident Report was tainted and declared them inadmissible. However, the Court concluded that the videotaped statement was not tainted by the tainting features which disqualified the Incident Report and therefore the videotaped statement was admissible.</p>
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## **Saskatchewan**

Title	<b>Boos v. Regina (Police Commission)</b>
Citation	[2006] S.J. No. 240
Court	Saskatchewan Court of Queen's Bench
Source	QuickLaw
Search terms	emergency medical technician!
Accessed	July 8, 2011
Relevance	Case concerned the aftermath of a paramedic being terminated as a result of their affiliation with the Hells Angels.
Summary	<p>Application by the defendants, the Regina Board of Police Commissioners and its deputy police chief, to strike out the statement of claim of Boos, who was employed as an emergency medical technician by the Regina Qu'Appelle Regional Health Authority. Boos was involved with the Hell's Angels Motorcycle Club and the Health Authority learnt about Boos' involvement and obtained information from the deputy police chief about the Hell's Angels. The Chief expressed concerns about this involvement and feared Boos would be unable to properly treat injured police officers. The Health Authority subsequently terminated Boos employment after Boos refused to cease his involvement with the organization. Boos sued the defendants for inducing the breach of his employment contract and the Defendant submitted that the termination of Boos' employment contract was governed by his collective bargaining agreement and was outside of the Court's jurisdiction. The Court allowed the application and struck out the claim because the action</p>

	<p>was clearly based on the termination of the employment relationship and was governed by the grievance procedure of the agreement and the arbitration process under the Trade Union Act. These were the only procedures available to an employee who lost his employment and therefore the Court lacked jurisdiction in this matter.</p>
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### **Newfoundland & Labrador**

Title	<b>R. v. Carey</b>
Citation	<b>[2012] N.J. No. 237</b>
Court	Newfoundland and Labrador Provincial Court
Source	QuickLaw
Search terms	emergency medical responder!
Accessed	October 9, 2012
Relevance	A paramedic was charged with sexual assault for allegedly sexually assaulting a co-worker.
Summary	<p>Mr. Carey, a paramedic, was charged with the offence of sexual assault. Allegedly, Mr. Carey sexually assaulted a co-worker, Ms. K, who drove an ambulance and assisted the paramedics. Ms. K testified that Mr. Carey and herself stopped the ambulance to have a cigarette at which point she indicated to him that she was having trouble breathing and he properly examined her chest and back with a stethoscope. Ms. K testified that they then got back into the ambulance and drove away. The aforementioned events were confirmed by Mr. Carey's testimony. She stated that as they were driving Mr. Carey said he was going to pull the ambulance over to the side of the road so that he could check her breathing again. Ms. K testified that this time when Mr. Carey was examining her he did so in a sexual manner. Specifically, Ms. K testified that Mr. Carey unbuttoned her blouse, touched her sexually, made sexual remarks to her, and took her hand and touched his penis with it. Mr. Carey denied these allegations and testified that he pulled over the second time to speak to Ms. K. about her poor work performance and that nothing of a sexual nature took place.</p> <p>The Court held that there was no logical basis to reject Mr. Carey's evidence as his description of what occurred at the gravel pit contained no elements which are nonsensical, illogical or which were established as false. Therefore, the Court concluded that the Crown failed to prove beyond a reasonable doubt that Mr. Carey sexually assaulted Ms. K and acquitted Mr. Carey of sexual assault.</p>

## Appendix A: Description of Databases

### LexisNexis Quicklaw

LexisNexis Quicklaw offers access to a collection of databases including case law from all Canadian jurisdictions, administrative tribunal decisions, legislation and legal commentary in the form of texts, journals, newsletters and indexes. In addition to Canadian materials, LexisNexis Quicklaw includes American case law and legislation and selected U.K. and Commonwealth judgments. Decisions are in the form of digests or full text. They may be either electronic versions of printed reports (e.g., *Ontario Reports*) or unreported current judgments<sup>1</sup> as received directly from the courts.

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<sup>1</sup> Unreported full text judgements from Canadian courts can be accessed through the “All Canadian Court Cases” group source. (QuickLaw Source Information)

## Appendix B: Search Results:

The below table lists the search terms used for each province, the total number of results the search yielded, the number of relevant results, the list of relevant results, and a description of the relevant cases. Significantly, the cases labeled in **green** were selected to be summarized further and are included in the Summary of Findings section while the cases labeled in **red** were not. It is important to note that all searches were performed with "AND NOT" followed by each preceding search in order to avoid duplication of results. Additionally, "(sub)" indicates that the search is a subsearch of the previous search.

### ALBERTA – searched on July 8, 2011

<u>Search</u>	<u>Total Results</u>	<u>Relevant Results</u>	<u>Relevant Case Name</u>	<u>Description of Case</u>
emergency medical attendant!	1	0		
emergency medical responder!	15	1		
			Edmonton (City) v. Canadian Union of Public Employees, Local 3197 (Sagstuen Grievance) [2007] A.G.A.A. No. 68	Termination for omitting previous employers from his employment history in job application
ambulance attendant!	77	2		
			Calgary (City) v. Canadian Union of Public Employees, Local 3421 (Gee Grievance) [2001] A.G.A.A. No. 72	Fatality due to failure to conduct medical assessment
			Shackleton v. Knittle 1999 ABQB 539	Alleged paramedic negligence b/c of instructions to patient
emergency medical technician!	53	4		
			Calgary (City) v. Paramedic X [1995] A.J. No. 1224	Application regarding the powers of a medical director – whether they could prevent a paramedic from engaging in patient care and thus overriding employer/regulator decision that paramedic was competent
			Calgary (City) v. Paramedic X [1999] 3 W.W.R. 509	Appeal of 1995 case
			Edmonton (City) v. Canadian Union of Public Employees, Local 3197 (Sagstuen Grievance) [2007] A.G.A.A. No. 69	Supplement to other Sangstuen grievance (see above) – addresses remedy
			Peace Regional Emergency Medical Services Society v. Health Sciences Assn. of Alberta (Wilson Grievance) [2003] A.G.A.A. No. 67	Paramedic alleged to have inappropriate physical contact with patients
paramedic!	375			
(sub) - misconduct	35	1		
			Brooks Health Centre v. Health Sciences Assn. of Alberta (Mytrunec Grievance) [1995] A.G.A.A. No. 50	Dismissal for harassment and verbal abuse of colleague
(sub) - negligence or negligent	58	2		



			Calgary (City) v. Canadian Union of Public Employees, Local 3421 (Mackenzie Grievance) [2005] A.G.A.A. No. 89	Grievance that suspension for crashing ambulance (while not on call or with patient) was excessive
			R. v. Burns [1993] A.J. No. 998	Criminal action against a person who forged credentials to secure various positions and may have taught incorrect procedures to paramedic students
(sub) - incompetence or incompetent	3	0		

**BRITISH COLUMBIA** – searched on July 11, 2011

<u>Search</u>	<u>Total Results</u>	<u>Relevant Results</u>	<u>Relevant Case Name</u>	<u>Description of Case</u>
emergency medical attendant!	14	9		
			British Columbia Ambulance Service v. Ambulance Paramedics of British Columbia (Snider Grievance) [2003] B.C.C.A.A.A. No. 69	Grievance regarding suspension imposed for alleged verbal abuse against patient
			Emergency Health Services Commission and Ambulance Paramedics of British Columbia, CUPE Local 873 [1997] B.C.C.A.A.A. No. 752	Alleged cheating during an employment related exam
			Emergency Health Services Commission and Ambulance Paramedics of British Columbia (Bryant Grievance) [1999] B.C.C.A.A.A. No. 191	Grievance regarding dismissal for bullying in the workplace
			Emergency Health Services Commission v. Ambulance Paramedics of British Columbia, Canadian Union of Public Employees, Local 873 (Dunbar Grievance) [1986] B.C.C.A.A.A. No. 172	Grievance of dismissal for the commission of crimes while off duty
			Emergency Health Services Commission v. Ambulance Paramedics of British Columbia, Canadian Union of Public Employees, Local 873 (Falkoski Grievance) [2001] B.C.C.A.A.A. No. 139	Grievance for termination relating to the allegation of forged timesheets
			Emergency Health Services Commission v. Ambulance Paramedics of British Columbia (Janas Grievance) [2003] B.C.C.A.A.A. No. 365	Grievance relating to dismissal for among other things repeatedly failing to respond to pages
			Emergency Health Services Commission v. C.U.P.E., Local 873 [1987] B.C.C.A.A.A. No. 342	Issue is appropriate disciplinary action for paramedic allegedly failing to provide a sufficient level of care
			RE Emergency Health Services Commission and Ambulance Paramedics of British Columbia, C.U.P.E., Local 873 [1987] B.C.C.A.A.A. No. 391	Grievance of dismissal for the commission of crimes while off duty
			Taylor (Re) [1999] B.C.L.R.B.D. No. 57	Case against union for failing to properly represent in above grievance relating to alleged cheating during a test
emergency medical responder!	10	0		

ambulance attendant!	608			
(sub) - misconduct	35	6		
			Edgar v. Richmond (Township) [1991] B.C.J. No. 598	Alleged negligence against paramedics for waiting for police before entering into a hostile environment
			Emergency Health Services Commission and C.U.P.E., Loc. 873, Re [1988] B.C.C.A.A.A. No. 27	Termination of paramedic following a sexual assault conviction arising from events while he was off duty
			Emergency Health Services Commission v. Ambulance Paramedics of British Columbia, Canadian Union of Public Employees, Local 873 (Lalli Grievance) [1986] B.C.C.A.A.A. No. 86	Grievance from a reprimand for providing patient care below the required standard
			Emergency Health Services Commission v. Ambulance Paramedics of British Columbia C.U.P.E. Local 873 [1993] B.C.C.A.A.A. No. 347	Termination relating to allegations of forged timesheets
			R. v. Husereau [2009] B.C.J. No. 571	Criminal matter relating to a paramedic sexually assaulting a patient
			R. v. M.E.H. [2009] B.C.J. No. 2053	Criminal matter relating to a paramedic sexually assaulting a patient
(sub) - negligence or negligent	251			
(sub) (sub) - dismissal or dismiss	48	0		
(sub) (sub) - terminate or grievance	6	0		
(sub) (sub) - "standard of care"	55			
(sub) (sub) (sub) - professional or profession	21	1		
			Davidson v. British Columbia [1996] 1 W.W.R. 137	Allegation of negligence against paramedics for falling below standard of care required
(sub) - incompetence or incompetent	6	0		
emergency medical technician!	3	0		
paramedic!	771			
(sub) - misconduct	63	2		
			Daley v. Emergency and Health Services Commission [2008] B.C.H.R.T.D. No. 63	Case concerns allegations of discrimination due to disability, but mentions discipline of same paramedic in relation to conduct towards a patient (paramedic did not dispute conduct or discipline)
			Emergency Health Services Commission and Ambulance Paramedics of British Columbia, CUPE Local 873 (Belway Grievance) [1998] B.C.C.A.A.A. No. 250	Grievance for discipline arising from paramedic giving false medical condition of patient to dispatcher
(sub) - negligence or negligent	112			
(sub) (sub) - terminate or grievance	14	0		
(sub) (sub) - dismissal	8	0		
(sub) (sub) - "standard of care"	30	1		

			Battrum v. British Columbia [2009] B.C.J. No. 1074	Allegation that paramedic was negligent and provided care below acceptable standard
(sub) - incompetence or incompetent	8	0		

**MANITOBA** – searched on June 17, 2011

Search	Total Results	Relevant Results	Relevant Case Name	Description of Case
ambulance attendant!	67	1		
			Bodnarek v. Health Sciences Centre [2004] M.J. No. 401	Alleged negligence of Ambulance attendants for failing to appreciate the nature of the patient's injuries and as a result not bringing her to a hospital, which led to further damages
emergency medical responder!	3	0		
emergency medical technician!	1	0		
emergency medical attendant!	2	0		
paramedic!	364			
(sub) - misconduct	17	1		
			Manitoba Government and General Employees' Union v. Interlake Regional Health Authority (Cadger Grievance) [2005] M.G.A.D. No. 80	Grievance that a suspension was too severe a punishment for an alleged incident of harassment in the workplace (directed towards another employee)
(sub) - risk	78	1		
			Harder Estate (Re) [2003] M.J. No. 315	Inquest to determine the circumstances of five-year-old Harder's death and to determine what could be done to prevent similar deaths from occurring in the future. Paramedics were involved in the inquest because the paramedics who arrived were not of a high enough level to administer necessary drugs.

**NEW BRUNSWICK** – searched on June 17, 2011

Search	Total Results	Relevant Results	Relevant Case Name	Description of Case
ambulance attendant!	56	5		
			Beal v. Grant [1983] N.B.J. No. 85	Action for wrongful dismissal – employer said they dismissed paramedic for failing to report to work one day and the paramedic claimed that it was a mere misunderstanding with regards to when he was taking his vacation days
			Beal v. Grant [1984] N.B.J. No. 77	Appeal of the above decision

			New Brunswick (Board of Management) v. Canadian Union of Public Employees, Local 1252 [1990] N.B.P.S.L.R.D. No. 4	Employer alleged that the ambulance attendants were on an illegal strike. The ambulance attendants were still responding to emergency calls but were refusing to perform their 'orderly' duties (in-hospital tasks, such as assisting nursing staff in the emergency department)
			Price v. St. John Ambulance, New Brunswick Council [1997] N.B.J. No. 169	Application to quash the decision of St. John Ambulance for expelling Price from the ambulance attendant course because of allegations of cheating at an exam
			R. v. Léger [1999] N.B.J. No. 43	Appeal of a conviction for sexual assault. The charge resulted from a patient complaining that the paramedic (Léger) touched her sexually while transporting her to the hospital following an accident
emergency medical responder!	0			
emergency medical attendant!	1	1		
			Canadian Union of Public Employees, Local 1252 v. Atlantic Health Sciences Corp. (Mesereau Grievance) [2009] N.B.L.A.A. No. 11	Grievance that a position should have been awarded to the grievor because they were the most senior candidate. It was not offered to the grievor because they lacked certain qualifications (particular courses). Grievance dismissed because they required skills for the position were reasonable
emergency medical technician!	16	2		
			Canadian Union of Public Employees, Local 1252 v. Region 7 Hospital Corp. (Butler Grievance) [2000] N.B.L.A.A. No. 20	Grievance of a dismissal, which was based on the paramedic in question responding to a call the morning after his birthday with alcohol on his breath
			Harnish v. Region 3 Hospital Corp. [1997] N.B.L.A.A. No. 10	Grievance of a dismissal, which was based on failure to notify the employer of an intended absence from work
paramedic!	68	0		

### NEWFOUNDLAND AND LABRADOR– searched on June 17, 2011

<u>Search</u>	<u>Total</u>	<u>Relevant</u>	<u>Relevant Case Name</u>	<u>Description of Case</u>
	<u>Results</u>	<u>Results</u>		
paramedic!	34	0		
emergency medical technician!	0			
emergency medical attendant!	2	0		
emergency medical responder!	1	0		
ambulance attendant!	41	0		

### NOVA SCOTIA– searched on June 17, 2011

<u>Search</u>	<u>Total</u>	<u>Relevant</u>	<u>Relevant Case Name</u>	<u>Description of Case</u>
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	<b>Results</b>	<b>Results</b>	
<b>paramedic!</b>	74	1	
			Children's Aid Society of Halifax v. S.G. [2000] N.S.J. No. 291 Application for child custody following the removal of the child from the home because of abuse. Parents responded to allegations of abuse by suggesting that the paramedics bruised the baby on transport to the hospital. However, the substantial evidence makes this suggestion difficult to believe.
<b>emergency medical technician!</b>	6	0	
<b>emergency medical attendant!</b>	2	0	
<b>emergency medical responder!</b>	2	0	
<b>ambulance attendant!</b>	54	1	
			Mahon v. Nova Scotia (Attorney General) [1986] N.S.J. No. 65 Ambulance attendant sued a driver of a vehicle for causing a motor vehicle accident in which the ambulance attendant was injured. While the ambulance was being driven lawfully and the plaintiff was drunk, the ambulance attendant should have seen him coming and therefore was 25% contributorily negligent. 75% of damages awarded to ambulance attendant

**ONTARIO** – searched on July 13, 2011

<b>Search</b>	<b>Total</b>	<b>Relevant</b>	<b>Relevant Case Name</b>	<b>Description of Case</b>
	<b>Results</b>	<b>Results</b>		
<b>emergency medical attendant!</b>	32	9		
			Kingston Ambulance Service and O.E.S.E.U., Loc. 462, Re [1992] O.L.A.A. No. 49	This was a grievance by two ambulance attendants that arose out of orders by management that the grievors should mop the hallway of the ambulance station
			Mattick, as Executor of the Estate of James Mattick et al. v. Her Majesty the Queen in Right of Ontario as represented by the Minister of Health et al. [Indexed as: Mattick Estate v. Ontario (Minister of Health)] [2001] O.J. No. 21	An appeal from a motion to dismiss regarding a case where it is alleged that paramedics provided substandard care to a patient
			North Bay General Hospital v. Canadian Union of Public Employees, Local 139 (Cameron Grievance) [1997] O.L.A.A. No. 321	Grievance regarding a paramedic being discharged for a conviction of fraud for offences related to off-duty conduct
			North Bay General Hospital v. Canadian Union of Public Employees, Local 139 (Kotsopoulos Grievance) [2003] O.L.A.A. No. 580	Paramedic grieved his suspension for refusing to comply with the legal requirement to get a flu shot
			Re Huntsville District Hospital and S.E.I.U. [1992] O.L.A.A. No. 611	Preliminary issue about whether hospital could raise absenteeism in regards to dismissal of paramedic, who was originally terminated for a conviction of sexual assault. An incident which involved his actions towards his colleagues.

			Re Kitchener Waterloo Regional Ambulance (1987) Inc. and C.U.P.E., Local 791 [1993] O.L.A.A. No. 833	Grievance of termination relating to harassing and discriminating behaviour towards a colleague
			Re York County Hospital and S.E.I.U., Local 204 [1992] O.L.A.A. No. 1307	Case relates to whether discharge of paramedic was an appropriate disciplinary action for reporting to duty while intoxicated from alcohol
			Scheerer v. Waldbillig [2006] O.J. No. 744	Judicial review of decision to de-certify a paramedic following several complaints from patients
			Sensenbrenner Hospital, Kapuskasing v. Service Employees International Union, Local 204 (Mercier Grievance) [2002] O.L.A.A. No. 602	Grieved his dismissal for failing to meet the qualifications to be a paramedic following him failing his upgrade exam
<b>emergency medical responder!</b>	2	0		
<b>ambulance attendant!</b>	795			
<b>(sub) - misconduct</b>	60	8		
			Hanover & District Hosp. and London & District Service Workers' Union, Loc. 220, Re [1987] O.L.A.A. No. 98	Grievance for termination without just cause. Paramedic was terminated for not suitably performing the nursing component of their duties (in hospital nursing responsibilities). Largely, it was alleged that he had an attitude problem and tried to get out of nursing duties however possible and talked his colleagues into doing the same
			Metropolitan Toronto (Municipality) and Metropolitan Toronto Civic Employees Union, Loc. 43, Re [1988] O.L.A.A. No. 112	Case involving an ambulance attendant dismissed for theft arising from improper use of company credit cards
			Re Anson General Hospital and S.E.I.U., Local 478 [1996] O.L.A.A. No. 1066	Grievance of termination without just cause. Termination was caused by the paramedic persistently failing to report for a scheduled shift
			RE Coburg & District Ambulance Service and Ontario Public Service Employees Union, Local 344 [1985] O.L.A.A. No. 86	Grieving 2 day suspension for violating the rule that does not allow employees to ride motorcycles to work
			Re Kitchener Waterloo Regional Ambulance and C.U.P.E., Local 791 [1993] O.L.A.A. No. 784	Grievance of termination for allegedly failing to respond to a call and insubordination
			Re Manitowadge General Hospital and S.E.I.U., Local 268 [1992] O.L.A.A. No. 734	Grievance of dismissal, where grounds for dismissal included several incidents including substandard patients care
			RE Municipality of Metropolitan Toronto and Canadian Union of Public Employees, Local 43 [1978] O.L.A.A. No. 39	Grievance of 2 day suspension following an incident where a patient was not properly supervised
			Thames Emergency Medical Services Inc. v. Ontario Public Service Employees Union, Local 417 (Larocque Grievance) [2007] O.L.A.A. No. 259	Grievance alleging unjust discipline relating to threatening and intimidating conduct towards colleagues
<b>(sub) - negligence or negligent</b>	155			
<b>(sub) (sub) - professional or profession</b>	57	2		
			Chaszewski Estate v. 528089 Ontario Inc. (c.o.b. Whitby Ambulance Service) [2011] O.J. No. 2512	Alleged that an ambulance attendant did not provide appropriate care
			Thomas v. Hamilton Board of Education [1990] O.J. No. 147	Alleged that an ambulance attendant was negligent in the treatment of a patient
<b>(sub) - incompetence or incompetent</b>	7	0		

emergency medical technician!	2	0		
paramedic!	1773			
(sub) - misconduct	83	10		
			Canadian Union of Public Employees (Toronto Civic Employees Union), Local 416 v. Lauwers [2011] O.J. No. 2028	Judicial review of coroner's inquest decision to explore labour matters such as the right of paramedics to engage in a legal strike and whether the strike affected the treatment of the death of the individual in question
			Hamilton (City) v. Ontario Public Service Employees Union (McCord Grievance) [2008] O.L.A.A. No. 280	Grievance regarding suspensions for both sending an inappropriate email regarding his concerns of employment conditions and using profanity against members of the public while at work (towards other drivers on the road)
			Northumberland County v. Ontario Public Service Employees Union, Local 344 (Sterling Grievance) [2010] O.L.A.A. No. 599	Grievance for suspension related to sending a derogatory and insubordinate email to his supervisors
			Ontario (5956-MED) (Re) [2010] O.L.A.T.D. No. 101	An appeal to the decision to suspend her licence because of a drug addiction problem. Until she regains her licence she is unable to work as a paramedic
			Ottawa (City) v. Canadian Union of Public Employees (Lauzon Grievance) [2009] O.L.A.A. No. 548	Grievance of decision to put paramedic on leave without pay pending the decision of criminal charges relating to alleged sexual assault of a patient
			Ottawa (City) v. Canadian Union of Public Employees (Lauzon Grievance) [2009] O.L.A.A. No. 560	The interim order for the above case
			Ottawa (City) v. Canadian Union of Public Employees, Local 503 (Beland Grievance) [2011] O.L.A.A. No. 89	The employee, a paramedic, grieved that he had been unjustly dismissed for incomplete submission and non-submission of ambulance call reports and shift packages
			Service Employees International Union Local 1.ON v. Sun Parlour Emergency Services (Hettrick Grievance) [2009] O.L.A.A. No. 27	Grievance of a paramedic's discharge based on the allegation that she left her work station to go have dinner with her husband at a restaurant – and therefore put the public at risk
			Simcoe (County) Paramedic Services Sector 1 - Ambulance v. Ontario Public Service Employees Union, Local 303 (Wright Grievance) [2008] O.L.A.A. No. 693	Grievance for being discharged for failing to provide proof of immunization in a timely manner
			Thunder Bay (City) v. Canadian Auto Workers, Local 229 (Melnychuk Grievance) [2005] O.L.A.A. No. 472	Grievance relating to a dismissal on the basis of several grounds including relating to patient interaction, not following safety protocols, and stealing prescriptions pads to fraudulently obtain prescriptions
(sub) - negligence or negligent	93			
(sub) (sub) - professional or profession	40	0		
(sub) - incompetence or incompetent	12	1		
			Durham (Regional Municipality) v. Canadian Union of Public Employees, Local 1764 (McComb Grievance) [2010] O.L.A.A. No. 656	Paramedic grieved the refusal to allow them to return to work following a leave of absence for failing to meet a new requirement. New requirement was passing a test of carrying a dummy in a stair chair up and down 2 flights of stairs in 6 different scenarios

**PRINCE EDWARD ISLAND** – searched on June 17, 2011

<u>Search</u>	<u>Total</u>	<u>Relevant</u>	<u>Relevant Case Name</u>	<u>Description of Case</u>
	<u>Results</u>	<u>Results</u>		
paramedic!	2	0		
emergency medical technician!	1	0		
emergency medical attendant!	0			
emergency medical responder!	0			
ambulance attendant!	2	0		

**SASKATCHEWAN** – searched on July 8, 2011

<u>Search</u>	<u>Total</u>	<u>Relevant</u>	<u>Relevant Case Name</u>	<u>Description of Case</u>
	<u>Results</u>	<u>Results</u>		
emergency medical attendant!	0			
emergency medical responder!	3	0		
ambulance attendant!	49	0		
emergency medical technician!	32	5		
			Boos (Re) [2008] S.L.R.B.D. No. 15	Action against union for failing to represent this emergency medical technician when he was dismissed for being associated with the Hells Angels
			Boos v. Regina (Police Commission) [2006] S.J. No. 240	Action against the police for inducing breach of contract because they expressed concern with the health authority with the plaintiff's affiliation with the Hells Angels and questioned his ability to properly treat police officers who might require medical treatment.
			Fox v. Souris Ambulance (1989) Ltd. [1993] 2 W.W.R. 79	Case was whether paramedics dismissal was justified where the paramedic refused to follow instructions and transport a patient to the hospital. He rejected because he refused to work with the other employee in the ambulance.
			Ratzlaff v. Medstar Ventures Inc. [2006] S.J. No. 218	Action for wrongful dismissal. Employer alleges that she was fired for delays in response time and insubordination. Court held that the single incident of delayed response time did not justify dismissal
			Service Employees' International Union, Local 299, Applicant, and LifeLine Ambulance Service Ltd., Respondent [1993] S.L.R.B.D. No. 73	Alleged that employee was terminated unjustly because of his involvement in unionizing the labour force. Employer argued it was because of insubordination.
paramedic!	36	0		



**ALL JURISDICTIONS** – searched on October 9, 2012 spanning the past 15 months (August 9, 2011 to October 9, 2012)

<u>Search</u>	<u>Total</u>	<u>Relevant</u>	<u>Relevant Case Name</u>	<u>Description of Case</u>
	<u>Results</u>	<u>Results</u>		
emergency medical attendant!	2	0		
emergency medical responder!	3	1	R. v. Carey [2012] N.J. No. 237	Paramedic was charged with sexual assault. It was alleged that the paramedic sexually assaulted a patient in the back of the ambulance while conducting a medical examination. The paramedic was acquitted of the charges because the complainant's testimony included major inconsistencies and, as a result, the Crown failed to prove beyond a reasonable doubt that the paramedic committed the offence.
ambulance attendant!	77	5	Scoates v. Dermott 2012 BCSC 485	A paramedic brought an action against three individuals with whom he had been involved in traffic accidents. Through the cumulative injuries he suffered in these successive accidents he was rendered permanently disabled and no longer able to work as a paramedic. His actions against the defendants were successful and they were liable for damages flowing from his injuries, including his lost income as a paramedic.
			R. v. Ziegler 2012 BCCA 353	Appeal by Ziegler from his designation as a dangerous offender. The predicate offence was a sexual assault committed by Zeigler on a female ambulance attendant when the ambulance attendant was transporting him to hospital.
			R. v. Dixon 2012 ONSC 3438	Dixon and some of his associates were charged with conspiracy to import cocaine and conspiracy to launder the proceeds of their crimes. Among the allegations made was their involvement in a conspiracy to smuggle 30kg of cocaine in an air ambulance (medivac) transporting Canadian patients from Panama back into Canada. The paramedics were not charged with conspiracy and based on the case it appeared as though they were not aware of the plan – it was the pilot that was involved in the conspiracy with the charged individuals.
			Decision No. 2329/10 2012 ONWSIAT 1287	A paramedic was off-duty attending a local festival when he witnessed a member of the public collapse. The paramedic assisted the person and when an ambulance arrived, he assisted the on-duty paramedics with the patient's care. While providing assistance, the paramedic suffered an injury to his arm. The paramedic was denied Workers' Compensation because he was not in the course of his employment at the time of the incident. This case is the paramedic's appeal of the decision to deny him entitlements under Workers' Compensation.
			Bauer v. Toronto (City) 2011 HRTO 1628	Bauer, an ambulance attendant, crossed a picket line during one of his strike shifts when his union went on strike. He believed his decision to cross the picket line would be confidential, however, other union members found out and Bauer claims that he has been harassed and reprisal against for not participating in the strike. Bauer alleged that he was discriminated against on the basis of his creed because his reasons

				for crossing the picket line were connected with his Christian faith (i.e. his faith prevented him from denying medical care for financial gain). The Court rejected Bauer's assertion that he crossed the picket line because of his creed and on that basis found that the human Rights Code was not engaged and therefore his application was dismissed.
<b>emergency medical technician! paramedic!</b>	9 401	1	McMillan v. Sarnia (City) 2011 ONSC 5254	Plaintiff was involved in a serious car accident and alleges that he suffered an aggravation of his physical and emotional injuries due to the negligence of the defendants. Specifically, he alleges that the defendant firefighter negligently extracted him from the cab of his truck and the defendant paramedics negligently treated him after he was removed from the cab of his truck.
<b>(sub) – misconduct</b>	39	3	R. v. Lauzon 2011 ONSC 7179	Mr. Lauzon brought this application to have statements he made to the Ottawa Police and Ottawa Paramedic Service be declared involuntary and inadmissible. The application was in connection to Mr. Lauzon's charge for sexual assault. It was alleged that Mr. Lauzon, a paramedic, sexually assaulted a patient while transporting her to the hospital.
			R. v. West Parry Sound Health Centre 2012 ONCJ 361	A health centre was charged with offences related to workplace safety. The Emergency medical services manager of the health centre climbed a ladder on the outside of the ambulance base and fell, sustaining injuries. The health centre was charged with failing to ensure that a portable ladder was placed on a firm footing as required by Regulation 851 and with failing to provide information, instruction, and supervision to the manager on the proper use of a ladder.
			Pak v. Toronto (City) 2011 HRTD 2281	The paramedic applicants allege that they have been subjected to discrimination and reprisal in their employment, in particular in relation to their employer's uniform policies and their efforts to seek uniform accommodation. This matter concerned whether the two applicants' cases should be heard together.
<b>(sub) – negligence or negligent</b>	42	3	Lambton (County) [2012] O.L.R.D. No. 112 & [2012] O.L.R.D. No. 2434	This case concerned Mr. Ataellahi's allegations directed towards his union. Specifically, he alleged that his union did not represent him with respect to a grievance, that his union mishandled an appeal he filed in regards to a union decision to not proceed with his grievance, and that the union generally fails to adhere to its constitution and represent its members. All of these issues stemmed from Mr. Ataellahi's refusal to receive a flu shot or take anti-viral medications and his employer's assertion that Mr. Ataellahi could not drive an ambulance as a result of his refusals. The employer was applying the Ministry of Health and Long-Term Care's policy that provides that during an outbreak of a communicable disease, such as influenza, no unvaccinated paramedic is allowed to respond to a request for an ambulance.  One of the referred to cases dealt with a motion by the union to summarily dismiss Mr. Ataellahi's claims while the other is the disposition of the matter in its entirety.

			<b>Chaszewski Estate v. 528089 Ontario Inc. (c.o.b. Whitby Ambulance Service) 2012 ONCA 97</b>	Appeal by the plaintiffs from a summary dismissal of their action against 2 paramedics for negligence.
<b>(sub) – incompetence or incompetent</b>	2	0		

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