

Random drug and alcohol testing – Employer learnings from Suncor v Unifor

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Employers are increasingly looking to drug and alcohol testing to address workplace safety risks while employees and unions continue to challenge such testing on the basis of privacy concerns. Implementing a drug and alcohol testing program comes with a number of considerations – employers must find a balance between their legitimate interest and obligation to provide a safe work environment and employees' privacy and human rights.

Furthermore, there is no legislative regime in Canada that specifically governs drug and alcohol testing in the workplace, which can make the implementation and management of drug and alcohol testing programs difficult to navigate. As well, Canadian courts and arbitration boards have recently been divided on the enforceability of random drug and alcohol testing policies.

This presentation covers a wide range of topics that can help employers looking to implement a drug and alcohol testing program, including the following:

- an outline of drug and alcohol testing relating to *Communications, Energy and Paperworkers Union of Canada, Local 30 v. Irving Pulp & Paper, Ltd.*, 2013 SCC 34 (*Irving*) – the landmark Supreme Court of Canada ruling in *Irving* held that employers in a unionized workplace must lead evidence of a general workplace drug or alcohol problem in order to justify random drug and alcohol testing policies
- a synopsis of post-*Irving* case law and arbitral decisions
- an overview of Suncor's challenge in *Suncor Energy Inc. v. Unifor Local 707A*, 2016 ABQB 269, a case that highlights the evidentiary burden an employer must meet in order to justify a universal random drug and alcohol testing policy
- best practices for creating, managing and defending your drug and alcohol testing program

[Random Drug and Alcohol Testing from Osler, Hoskin & Harcourt LLP](#)

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