

# Leave denied: Supreme Court declines to hear *Waksdale* Appeal

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On January 14, 2021, the Supreme Court of Canada dismissed the application for leave to appeal in *Waksdale v. Swegon North America Inc.*<sup>1</sup>, an Ontario Court of Appeal decision on the enforceability and severability of termination clauses. As such, the Court of Appeal decision remains the state of the law in Ontario. We published a [detailed bulletin](#) on the Court of Appeal's decision last summer; below are key highlights of that ruling.

## What you need to know

- The Ontario Court of Appeal's decision remains the law in Ontario, including the determination that an unenforceable "for cause" termination clause rendered all termination provisions in an employment agreement void, regardless of whether or not the termination provisions are separated within the agreement.
- This ruling confirms that courts will continue to interpret employment agreements as a whole, and not on a piecemeal basis.
- Employers should view this decision as a reminder of the care that must be taken in drafting termination clauses in employment agreements. While termination clauses are useful tools, they are only effective when they comply with the relevant statutory regime.
- Employers should carefully consider their employment contract templates for use going forward and obtain advice on any existing contracts that may be impacted by this decision.

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<sup>1</sup> 2020 ONCA 391.

*To discuss these issues, please contact the author(s).*

*This publication is a general discussion of certain legal and related developments and should not be relied upon as legal advice. If you require legal advice, we would be pleased to discuss the issues in this publication with you, in the context of your particular circumstances.*

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