



Bell Canada ordered to pay remote employees who declined COVID vaccine

IRENE GALEA >



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BCE Inc.'s Bell Canada must repay

the wages of some remote-only employees who were put on unpaid leave during the COVID-19 pandemic, an arbitrator ruled, noting that the telecom's vaccination mandate was reasonable and progressive.

Bell said the ruling would affect approximately 130 employees, but did not provide a cost estimate for the compensation.

In 2021, Bell enacted a vaccine mandate for its 45,000 employees, which included the possibility of unpaid administrative leave or termination if they refused to get vaccinated. No employees were terminated, according to legal documents.

However, more than 300 unionized Bell employees filed grievances against the policy with local branches of Unifor, their union. Unifor argued that Bell's vaccine mandate was unreasonable, and that in threatening termination in certain cases, it "crossed the line between responsible management and abuse of authority by applying the policy rigidly and mechanically, without regard for workplace realities," according to legal records.

Bell, for its part, contends the unpaid leaves were administrative measures, and that they adjusted their approach as the situation evolved, particularly by choosing not to dismiss any employees.

In a ruling in late November, the first of three expected in the case, arbitrator Francine Lamy found that Bell was generally justified in its mandatory vaccination policy, given the substantial health risks and guidance from the federal government at the time.

She found the vaccine mandate to be a reasonable step that broadly outweighed the economic consequences for employees and the intrusion of their privacy, and noted the Canadian Charter

of Rights and Freedoms does nothing to protect employees from the economic consequences of their choice not to be vaccinated.

However, her view differed in the case of some employees: those who were assigned to exclusive remote work with no probable return to the office, given that these employees were not exposed to the types of risks the mandatory vaccine policy sought to mitigate.

The question largely revolved around the timing of the company's return-to-work policy and its vaccine mandate, which were designed to work together to ensure a safe return to the office.

In December, 2021, Bell announced that a mandatory return for all employees would take effect on Feb. 1 and that unvaccinated employees would be placed on unpaid leave. However, the return was postponed indefinitely in January. Nevertheless, Bell placed all unvaccinated employees, including fully remote employees, on unpaid leave as of Feb. 1, the arbitrator found.

In doing so, "Bell acted arbitrarily, thereby losing any reasonable foundation for placing unvaccinated employees working exclusively remotely on unpaid leave," Ms. Lamy found.

She ordered Bell to pay lost wages with interest, and restore all rights and benefits.

In a statement, Bell spokesperson Luc Levasseur said the company's policy was consistent with the federal government's COVID-19 vaccination guidelines at that time, and noted the decision applies only to a small number of unionized employees who worked exclusively from home.

"We estimate that the arbitrator's decision applies to approximately 130 employees. We will work with the union to determine compensation for these employees," Mr. Levasseur said.

The decision follows a number of cases that also found employers were broadly justified in imposing vaccine mandates, including in arbitration involving employees of the courier and logistics service provider Purolator Inc., space company MDA Inc., and a subsidiary of automaker Stellantis N.V.