

In a Flash



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Recent Ontario Court Decision Reminds Employers to Tread Carefully When Announcing Plant Closures

The recently released decision *Wood v. CTS of Canada Co.* involved a scenario that is becoming common in Ontario's manufacturing industry.

On April 17, 2014, CTS of Canada Co. ("CTS") announced the closure of one of its facilities, effective March 27, 2015. On the same day, it advised its 77 employees that their employment would terminate upon the closure of the plant.

Following the plant closure, 74 of CTS' employees initiated a class action lawsuit claiming that CTS failed to provide adequate notice of termination as required by the *Employment Standards Act, 2000* (the "ESA"). Under the ESA, if an employer terminates 50 or more employees in the same 4-week period, the employer must give at least 8 weeks' notice of termination. It also requires the employer to file a "Form 1" with the Director of Employment Standards (the "Director") on the "first day" of the notice period. Until the Director receives the Form 1, the notice of mass termination is not deemed effective.

While CTS announced the mass termination on April 17, 2014, it did not file the Form 1 notice with the Director and post same until May 12, 2015.

At trial, the employees held that the "first day" of the notice period was April 17, 2014, the date the plant closure was announced. CTS held that the "first day" of the notice period was the first day of the statutory notice period, 8 weeks after the plant closure.

Siding with the employees, the Court held that the "first day" of the notice period is the date the employer announces the mass termination. This triggers the employer's obligation to file and post the Form 1.

As a result of their failure to file and post the Form 1 on the first day of the notice period (i.e. the date of the plant closure), the Court awarded each Plaintiff termination pay covering the entire 12 month period from the announcement of the mass termination to CTS' filing and posting of the Form 1.

This decision is a warning and reminder to employers considering a plant closure to file and post the Form 1 on the day the mass termination is announced. Failure to do so could result in significant damages thereby negating the cost savings achieved by the plant closure.

If you have any questions about this topic or any other questions relating to workplace law, please do not hesitate to contact a [Mathews Dinsdale lawyer](#).

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