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HR teams aren't ready for the legal risks already in play

From doubled fines to AI hiring, employment lawyer and HRFest Canada 2026 panellist says organizations risk falling behind



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Canadian HR teams are sitting on a growing stack of legal exposure they haven't fully reckoned with – and the pace of change is only accelerating, according to Erin Kuzz, founding partner at Sherrard Kuzz LLP, a management-side employment law boutique in Toronto. Kuzz will make her case at HRFest Canada 2026 as a panellist on the Risk Radar panel – a session designed to surface the employment law calls that keep HR leaders up at night, from termination clauses to human rights obligations – ahead of the two-day festival on November 10 and 11 in Toronto.

Now in its second year, HRFest Canada brings together more than 750 HR professionals, executives and innovation leaders alongside upwards of 120 speakers, with 40-plus networking activities across five dedicated stages: The Hangar, The Leaders Forum, The Vault, The Lab and The Loft. Kuzz's Risk Radar panel sits within The Hangar – the main stage for key panels, live podcasts, and important debates. Key legal issues will also be tackled in a live legal Q&A in The Vault – a stage that will be taking a sharper, practitioner-first angle for its panels.

Kuzz attended [HRFest Canada](#) in 2025 and describes the experience as notably different than at other comparable industry events. “People were genuinely happy to be there and engaged in what they were hearing and watching,” says Kuzz. “It just brought a very different energy to the event than I think I've ever seen in any other similar event.”

The aging workforce: a succession planning time bomb

Chief among the practical concerns for HR practitioners and leaders is the aging workforce, says Kuzz – not primarily for accommodation reasons, but for the institutional knowledge walking out the door. The [regulatory and organizational demands on HR teams](#) have rarely been greater, and Kuzz believes that succession planning isn't being treated with the urgency it demands.

“HR professionals need to be getting ahead of how that knowledge gets transferred before the last two weeks before someone's retirement,” she says. “When you have an entire generation of your workforce retiring around the same time – and those are the people who have been there for 10, 20, 30 years – you're losing so much institutional knowledge.”

Pay transparency is creating increased compliance risk

Pay transparency legislation, now in force in Ontario since Jan. 1, 2026, under the Working for Workers Four Act, requires employers with 25 or more employees to include salary ranges in publicly advertised job postings. The full scope of what [Ontario's pay transparency rules are doing](#) to internal pay structures is only beginning to surface, says Kuzz, who believes the downstream effect on morale and retention is being badly underestimated. “I think we're going to start seeing people in those jobs saying, ‘Hang on, why am I below the pay band? Or why am I at the very bottom of the pay band you're going to market and looking like you're prepared to offer people more than I'm getting?’” she says. “I think you might lose people that you don't want to lose.”

On compliance rates for Ontario employers six months in: “We're certainly far from 100 per cent compliance,” says Kuzz.

AI in hiring: liability that most teams aren't ready for

According to Kuzz, the risk generating the most internal [pressure for HR is artificial intelligence \(AI\)](#). “I think HR is one of those places where, at least as it exists today, AI is a very limited utility, and we're going to start seeing the use of AI creating liability,” she says.

Kuzz points to recruitment as an area with high liability from AI. “When we start seeing AI be used to screen resumes or screen candidates, it has to be a lot better than it is now before it's going to be able to do that in a way that doesn't inadvertently create risk for the organization,” she says.

Kuzz presents an example of organization building an AI model to replicate the profile of its most successful salespeople without examining the underlying characteristics, which creates a system that could be problematic. “If all of your most successful salespeople happen to be middle-aged white men from affluent families who golf, you have a problem,” she says. “And I don't think we're seeing enough attention paid to the inputs on AI when the outputs may create discriminatory output – albeit without intention, but that doesn't matter.”

The concern is compounded in Ontario by a new disclosure obligation. Under Ontario's Working for Workers Four Act, 2024, employers with 25 or more employees must disclose in every publicly advertised job posting whether AI is used to screen, assess, or select applicants – and under the companion Working for Workers Five Act, [Employment Standards Act \(ESA\)](#) penalties have doubled from \$50,000 to \$100,000.

That doubling of fines extends to personal liability for individuals, including managers and HR professionals. Kuzz sees the change as a meaningful lever. “We have a stronger motivation to do what we should have been doing all along,” she says. “This at least provides HR professionals with some leverage to have those conversations, because non-compliance has a much higher cost that can land on them individually.”

Termination clauses and the volume problem

On the ever-evolving file of termination clauses, Kuzz points to [Bertsch v. Datastealth Inc.](#) – a landmark Ontario Court of Appeal decision involving a clause for which she says her firm drafted the compliant language – as a reference point for employers seeking certainty. The court confirmed that a well-crafted termination clause limiting an employee's entitlements to the minimum standards is enforceable, provided the language is unambiguous and the process of introducing new agreements is handled fairly, with employees given the proper chance to review and seek legal advice. "You can't just go around handing out new employment agreements to everybody and saying, 'Please sign these back by the end of the day,'" says Kuzz.

But beyond any single legal development, Kuzz's message for HR professionals at HRFest Canada 2026 and beyond is about systemic vigilance. "It's not about the single biggest change, it's about keeping up with the almost weekly small changes," she says. "They've got to make sure that they set themselves up to keep track of everything that's coming down the pipe, because all of those changes can mean big liability if you're not paying attention."