



INCOME SECURITY ADVOCACY CENTRE
Centre d'action pour la sécurité du revenu



Media Release

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Income Security Advocacy Centre and Parkdale Community Legal Services welcome the Supreme Court's landmark decision for gig workers

Toronto: In a ground-breaking [decision](#) released this morning, the Supreme Court of Canada made it easier for workers to challenge unfair contractual terms imposed by companies that hire them, whether or not they are in a formal employment relationship. The court sided with Uber drivers and reached a decision that addresses the concerns about access to justice highlighted by ISAC and PCLS in their [submission](#) before the court.

Today's decision in *Uber Technologies Inc. v. Heller* is a win for drivers who were forced to accept a standard "mandatory arbitration agreement" when they signed up on the Uber app. According to Uber, this meant that the drivers could no longer go to court or the Ministry of Labour with workplace disputes. Instead, they would have to go before a private decision-maker in Amsterdam, in a process that is both secret and expensive. In a 8-1 decision, the Supreme Court decided that the agreement could not stand, and the drivers could go ahead with a class action to determine whether they are employees.

"ISAC and PCLS teamed up to intervene in the case to argue that workers' right to seek justice in our public institutions cannot be signed away or privatized," said Nabila Qureshi, staff lawyer at ISAC who provided oral arguments before the Supreme Court. "Otherwise, employers can sidestep laws that guarantee workers' rights."

In siding with Uber workers, a majority of the judges held that the mandatory arbitration agreement was unfair, or "unconscionable". "The court recognized that Uber is in an unequal relationship with its drivers," Qureshi added. "Companies cannot use this power imbalance to strip workers of their rights under the guise of an 'agreement'".

"This decision strengthens protections for workers who may be taken advantage of by the companies that hire them," said John No, staff lawyer at PCLS. "To show that an agreement was unconscionable and therefore invalid, a worker will no longer be required to prove that their employer knowingly took advantage of the worker's vulnerable status. This is an important victory for workers."

"During the COVID-19 pandemic, previously undervalued workers, like farm workers, food delivery 'gig' workers, and cleaners, have been recognized as essential to our community and achieved important gains," No added. "But like grocery stores that cancelled pandemic pay, employers still have great power over workers. To have a more just and fair society, we need to transform working conditions and the systems that allow for exploitation."

In an earlier decision in this case, the Court of Appeal for Ontario had found that mandatory arbitration agreements imposed by employers are always illegal because they violate Ontario's *Employment Standards Act*. The Supreme Court did not disagree with that ruling, but left that issue to be determined on another day.

Income Security Advocacy Centre (ISAC) is a community legal clinic with a mandate to advance the systemic interests and rights of low-income Ontarians around income security programs and low-wage precarious employment.

Parkdale Community Legal Services (PCLS) serves low income residents of Parkdale and Swansea neighbourhoods in Toronto. Since its founding in 1971, PCLS has advised and represented thousands of employees and former employees against their employers.

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