

Can You Fire Employees for Lying on Their Resumes?



Resume writing is advertising and playing fast and loose with the facts is almost expected. But there's a difference between stretching the truth and outright lying. To be grounds for termination, the resume lie must be "material." To evaluate materiality, courts consider the seriousness of the lie and whether it helped the employee get hired or secure more favorable contract terms. Here are 2 cases where these factors led to a different conclusion. Although both cases are from Ontario, the same analysis applies in all parts of Canada.

Lie is Grounds for Termination

Facts

A business consulting group wouldn't hire professionals without university degrees. The group hired a consultant whose resume indicated that he had a PhD as well as bachelor's and master's degrees. While vetting him for partnership, the group discovered that the consultant didn't have these or any other degrees from an accredited university. So it fired the consultant without notice. He sued for wrongful dismissal claiming that he was entitled to the 3-months' notice specified in his contract and his bonus.

Decision

The Ontario Superior Court of Justice ruled that the termination was justified.

Explanation

The consultant lied about his academic credentials, knowing the group would rely on the lies when it hired him. He also parlayed the phoney academic credentials to secure a generous compensation package and bonus. Then, when he got caught, he falsely denied lying. So the group was justified to fire him without notice or his bonus.

[*Clark v. Coopers & Lybrand Consulting Group*, [1999] O.J. No. 4284, Nov. 5, 1999]

Lie Is Not Grounds for Termination

Facts

An employee at a food warehouse was fired for stealing. He was convicted of possession of stolen goods and served 60 days in jail. After he got out, he was hired at another food warehouse. The new employer didn't ask him why he'd left his previous job or require him to fill out a job application. Two years later, while applying for a position as a lead hand with the company, he said he'd never been convicted of a crime. The company did a background check and discovered the employee's criminal record. When confronted, the employee admitted to lying and was immediately fired.

Decision

An Ontario arbitrator ruled that the termination wasn't justified.

Explanation

The employee had lied about a fact that was material to his job—his criminal conviction for a theft-related crime committed while performing similar work for a similar employer in a similar workplace. But although lying was serious misconduct and worthy of discipline, the conduct had to be balanced against the fact that the employee had been working for the company for 2 years without incident or discipline and that he had immediately admitted his lie when confronted. So the arbitrator reduced the penalty from termination to a 6-month suspension.

[*Versacold Group v. Teamsters, Local 419*, [1999] 85 L.A.C. (4th) 366, Dec. 22, 1999]