

Constructive Dismissal and You



The phrase “constructive dismissal” describes situations where the employer has not directly fired the employee. Constructive dismissal is sometimes called “disguised dismissal” or “quitting with cause” because it often occurs in situations where the employee is offered the alternative of leaving or of submitting to a unilateral and substantial alteration of a fundamental term or condition of his/her employment. Whether or not there has been a constructive dismissal is based on an objective view of the employer’s conduct and not merely on the employee’s perception of the situation.

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Constructive dismissal, also known as constructive discharge, occurs when an employee resigns due to the employer's conduct altering the terms and conditions of employment to the extent that the work environment becomes intolerable or detrimental to the employee.

Here are the top five employer mistakes that can lead to a constructive dismissal claim:

1. Significant Reduction in Salary or Benefits
2. Demotion or Reduction in Job Responsibilities
3. Hostile Work Environment
4. Forced Relocation or Unreasonable Changes in Work Location
5. Breach of Contract or Fundamental Changes to Employment Terms

But what can employers do to mitigate a potential constructive dismissal claim? What are the common mistakes employers do that lead to constructive dismissal losses in the courts? What role does the right progressive discipline procedures play in effecting a potential claim against you?

There are a lot of misperceptions about what is and what isn't constructive dismissal, and there are a lot of misunderstandings about how "at risk" and employer is.



Jesse Dunning is a dedicated litigator, whose areas of practice include employment/human rights law, labour law, and general litigation. As part of his employment law practice, Jesse assists both businesses and employees with terminations, employment contracts, discrimination complaints and all manner of other employment issues. On the labour side, Jesse has assisted both unions and unionized employers navigate labour relations issues.

□Jesse's general litigation practice includes a variety of matters, including contract issues, wills and estate disputes, business disputes, and personal injury claims, but he is happy to deal with any area of law which lets him get into court and solve problems for his clients.

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