Drugs in the Workplace Court Cases 2025 Scorecard

n employer's right to test and discipline workers for workplace drug and alcohol use or impairment comes down to a balance of competing interests:

- The employer's duty to maintain a safe workplace.
- Workers' rights to privacy and, where the worker has a dependency or addiction, reasonable accommodations for disabilities.

Responsibility for making this crucial balance falls not to legislators but courts, arbitrators, human rights, and other tribunals who have to draw the lines in particular cases. Here's a look at the key cases from 2025 and the lessons HR directors can draw from them in enforcing their own drugs/alcohol policies.

1. **Drug Addicts & Alcoholics Are Entitled to Reasonable Accommodations**

What Happened: A paper plant suspended and eventually fired a veteran machine operator for the repeated pattern of not showing up to work. The union contended that the unexcused absences were the result of mental health problems related to alcoholism and sued the plant for not reasonably accommodating the operator's disability.

Result: The Québec arbitrator ruled that the five day suspension was justified but dismissal was not. The plant knew about the operator's mental and alcohol dependency issues, having offered him treatment once before. But in concluding that the operator was irredeemable and that further treatment would be useless, the plant violated its duty to accommodate. The plant should have at least sought out to do a medical assessment before firing the operator, the arbitrator reasoned in reducing the penalty to a 30-day suspension [*Unifor, Section Locale 905 c SEC FF Soucy WB*, 2025 CanLII 97802 (QC SAT), September 16, 2025].

Compliance Takeaway: When disciplining employees for violating workplace anti-drug and alcohol policies, it's essential to distinguish between casual use and addiction. Unlike the former, addiction and dependency are deemed to be disabilities under human rights laws. **Result:** Employees with addictions are entitled to reasonable accommodations.

2. Duty to Make Reasonable Accommodations Ends at the Point of Undue Hardship

What Happened: A mining operator terminated a safety-sensitive worker with a history of marijuana use for violating his last-chance agreement after he failed 2 more drug tests. The union claimed that the worker's marijuana use was an addiction entitling him to reasonable accommodations.

Result: The Québec arbitrator agreed with both points but found that the company did make reasonable accommodations by entering into the last-chance agreement allowing the worker to keep his job despite all his previous marijuana offences. In return, the worker agreed to certain conditions, including remaining sober. Once the worker violated that condition, it was reasonable for the company to conclude that further accommodation would be futile and that keeping him in his safety-sensitive position would impose undue hardship, especially since the worker was less than forthright about and unwilling to acknowledge the dangers associated with his marijuana use [*ArcelorMittal v. United Steelworkers, Local 6869*, 2025 CanLII 126713 (QC SAT), November 26, 2025].

Compliance Takeaway: The employer's duty is to make accommodations that are reasonable and not accommodations that would impose undue hardship. The *ArcelorMittal* case is a useful illustration of how courts draw the line between reasonable accommodation and undue hardship and of how far employers must go to accommodate an employee's drug addiction.

3. Fitness for Duty Is Easier to Enforce thanZero Tolerance

What Happened: A safety-sensitive worker was sent home after smashing his forklift into a heavy platform. Three hours later, he was called back to work for post-incident drug testing. The tests came back positive for marijuana and the worker got fired. The worker admitted to smoking pot at home after the incident but insisted he was totally sober when the incident occurred.

Result: The federal arbitrator found just cause for termination and rejected the union's grievance. The forklift crash was justification for post-incident testing. And the company specifically told the worker that it expected him to return to work for testing. Combined with the worker's previous drug-related discipline, admission to regular marijuana use, failure to claim a dependency requiring accommodation and only 5 months of service, there was just cause to dismiss [*Alstom Transportation Canada Inc. v Teamsters Canada Rail Conference Maintenance of Way Employees Division*, 2025 CanLII 84715 (CA LA), July 18, 2025].

Compliance Takeaway: One of the reasons the company won this case is that the arbitrator focused on whether the worker was fit for performing his safety-sensitive job responsibilities rather than on whether his marijuana use was moral or legal. This is just another illustration of how a fitness for duty policy to control substance abuse is easier to enforce than a zero tolerance policy.

4. TestingPositive for Marijuana Doesn't Prove Current Impairment

What Happened: A mine worker had to undergo post-incident drug testing after he drove a heavy haul truck into a berm. The test came back positive for marijuana and the

mine terminated the worker for violating its anti-drug policy. While admitting to eating a couple of marijuana gummies and sharing a joint the previous day while he was off duty, the worker insisted that his buzz was long gone by the time he reported to work.

Result: Given how long THC lingers in the body after the high, the Alberta arbitrator concluded that the test result finding 4 ng/ml didn't by itself prove the worker was impaired at the time of testing. Nor did the employer provide any other evidence of impairment. But the arbitrator also found that the worker's admitted use of pot was still a serious violation that undermined the trust the employer must have for a safety-sensitive worker. So, instead of reinstatement, it ordered the employer to pay money damages to compensate the worker for any harms he suffered as a result of being wrongfully terminated [*CST Canada Coal Limited v United Mine Workers of America, Local 2009,* 2025 CanLII 5367 (AB GAA), January 8, 2025].

Compliance Takeaway: *CST* is only the most recent example of a case in which a worker who failed post-incident testing for marijuana was able to avoid firing due to the lack of proof of impairment at the time the incident occurred.

5. **Post-Incident Testing Is Justified Only for Serious Incidents**

To justify discipline, employers must prove not only that the worker was impaired but that the drug/alcohol testing and disciplinary process was fair and reasonable. This is particularly true in cases where the worker undergoes post-incident or for-cause testing. Was the triggering incident serious enough to justify testing? Here are a pair of 2025 cases involving similar situations but totally opposite outcomes.

Minor Vehicle Accident IS Grounds for Post-Incident Testing

What Happened: A worker driving a bomb-cart tractor-trailer to transport containers accidentally struck a parked rubber tire gantry. The company demanded that he submit to drug testing. The union claimed the incident wasn't a "significant event" justifying testing under the company's post-incident testing policy.

Result: The British Columbia arbitrator disagreed. The fact that the incident was an unusual occurrence plus the $2,500 in property damage it caused was reasonable evidence to conclude that it was a "significant event." The company also did a reasonable investigation before ordering the test [*British Columbia Maritime Employers' Association v International Longshore and Warehouse Union – Canada*, 2025 CanLII 72308 (BC LA), June 9, 2025].

Twisted Ankle Is NOT Grounds for Post-Incident Testing

What Happened: A painter at a liquefied natural gas plant construction site tripped and rolled his ankle. Although embarrassed by his own awkwardness, the painter reported the injury to a supervisor as required by the site's workplace injury reporting policy. But as the saying goes, no good deed goes unpunished. The painter's explanation of what happened didn't sit right with the supervisors who suspected that he might have been drunk or high. So, after investigating the incident, they demanded that the painter submit to post-incident drug and alcohol testing. The tests came back negative but the union filed a grievance claiming that the company didn't have just cause to test.

Result: The British Columbia arbitrator agreed. The incident wasn't significant to justify invading the painter's privacy and bodily integrity. Trips and twisted ankles happen at worksites all the time, it reasoned. And even if the incident had been significant, the investigation was "inadequate" because the investigators didn't interview witnesses or get the painter's side of the story. Result: The company had to pay the painter $2,000 in damages [*Altrad Services Ltd. v International Union of Painters And Allied Trades, Local 138*, 2025 CanLII 31346 (BC LA), April 10, 2025].

Compliance Takeaway: It's critical not only to create a legally sound drug testing policy, but also implement it in a fair and reasonable manner. Heading into litigation, unions also have some big legal advantages, including the fact that:

- Testing is highly privacy intrusive
- Because drug and alcohol addiction are disabilities, employers might have to accommodate rather than discipline workers who test positive.
- Employers have the burden of proving their testing policies are a legally justifiable safety measure.

6. **Drug/AlcoholDisciplinary ProcessMust Be Speedy & Fair**

What Happened: In response to allegations about crew members using alcohol and drugs during Arctic voyages, a shipping company hired a private company to investigate the vessel. The 3-hour investigation, which took place on September 28, uncovered narcotics, empty beer bottles, and other evidence of drug and alcohol use in several cabins. On October 23, the company announced 30-day suspensions against the implicated crew members. The union cried foul, claiming the company violated its obligation under the collective agreement to impose any disciplinary actions within 10 days of the conduct giving rise to them. The company contended that the 10-day clock began ticking on October 20, the date it received the investigator's report, rather than the day the investigation took place.

Result: The federal arbitrator upheld the grievance. The company knew right away that the investigator had found incriminating evidence and didn't need the final report to determine that discipline was justified. Its real reason for delay was to avoid compromising the ship's final voyage to the Arctic scheduled to begin the day after the investigation. Thus, the suspensions were null and void and the company had to pay the costs of the arbitration [*Canadian Seafarers International Union v Desgagnés marine cargo inc.,* 2025 CanLII 37584 (CA SA), April 28, 2025].

Compliance Takeaway: As with testing, the process is crucial when meting out discipline for drugs/alcohol offences. Thus, improper delays, flawed investigations and other breakdowns in the disciplinary process can undermine the case for discipline even if the worker committed a clear workplace drug policy violation.