

Drunk Truck Driver Avoids Termination Of Employment



When a truck driver battling alcohol addiction found herself in a serious accident during work, it posed a critical question: Does an employer have the right to terminate employment based on drinking while driving?

Background

A truck driver was driving from Quebec to the United States. During the trip, she purchased 12 cans of beer, of which she consumed nine. Soon after, she got into a serious accident which significantly damaged the company truck.

After the employee returned to Quebec, she met with her employer's representatives and a union advisor, where the employee disclosed that she suffered from alcohol addiction, substantiating her claim with a medical note from her doctor. The employee subsequently completed an in-patient addiction treatment program, and upon completing the program, the employer terminated her employment.

The employee "admitted that even though she knew she shouldn't [drink], it was stronger, like something she couldn't control." She claimed that she found out about her alcohol addiction issue during the accident.

The Decision

The arbitrator overturned the dismissal and reinstated the employee, finding that the employer needed to fulfill its duty to inquire or accommodate. When an employer is put on notice that there may be a disability that could be the cause of the employee's conduct, the employer has a duty to inquire to determine whether there is some relation between the disability and conduct. The duty to inquire exists when the employer knows, perceives or ought to have known or perceived that an employee has a disability that could be the cause of the workplace issues. Where the conduct is unrelated to a disability, discipline and dismissal will generally not contravene human rights legislation. Where there is a connection, disciplining the employee would likely be considered discriminatory. Instead, the employer would be required to accommodate the employee to the point of undue hardship.

In this case, the arbitrator determined that the employer failed to make inquiries or consider accommodation options after being informed of the alcohol addiction. The employer never sought clarification about the employee's alcohol addiction issue or

asked for further medical information.

Implications for Employers

This case demonstrates that employers must fulfill their duty to inquire and if triggered, their duty to accommodate. Substance use disorder is a disability that triggers the protections of human rights legislation.

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