

## Falling Asleep on Job Is Grounds for Discipline but Not Termination



Video surveillance film showed a mattress plant mold operator in a posture strongly suggesting he was literally asleep at the switch. The operator insisted he was just relaxing and denied that he was asleep. It was an honest and sincere denial, the Ontario arbitrator found; but it was also false since he was clearly sleeping. Being honest is no substitute for being alert and being able to realize when you're asleep. Yet, termination was an overreaction, the arbitrator continued, for a non-safety-sensitive employee with 9 years of discipline-free service. But while finding that the dismissal was wrongful, the arbitrator refused to reinstate the operator given his unsuitability for the job and the fact that the plant could no longer trust him. So, the operator would have to settle for +11 weeks' notice and 15% in top-up and fringe benefits [[VPC Group Inc. v Unifor Canada Local 112](#), 2021 CanLII 7424 (ON LA), February 1, 2021].