Is Falsifying an Expense Report Just Cause for Termination?



It depends on the seriousness of the violation and who commits it.

Is dishonesty just cause to terminate an employee? The answer, as it always is with just cause, is it depends. Serious fraud or embezzlement clearly crosses the line and eradicates the trust on which employment must be based. But it's the less serious forms of dishonesty that pose the real challenge. An example that HR directors commonly confront is the employee who fudges the figures on an expense report. Here are 2 cases illustrating how courts determine whether falsifying an expense report constitutes just cause.

FALSIFYING EXPENSE REPORT IS NOT JUST CAUSE

SITUATION

An account manager submits an expense report indicating that he made sales calls to 2 customers when he was snowmobiling with a client. The accounting department discovers the discrepancy because it had the manager under surveillance due to suspicions about his previous expense reports. The manager eventually admits to lying on the expense report but claims he had to because the accounting department wouldn't have understood that the snowmobile trip was business-related. The employer is unimpressed and fires the manager without notice. He sues for wrongful dismissal.

RULING

The Ontario court rules that lying on the expense report isn't just cause for termination.

EXPLANATION

According to the court, employers must consider "the circumstances and context" of the dishonesty, as well as its nature and seriousness. Here, the manager, whom the court acknowledged was in "a position of trust," lied on his expense report. He also lied to his HR director. But there had been tension between the sales and accounting departments about expense reports before the incident. This, the court said, partly explains why the manager assumed the accounting department wouldn't understand why the snowmobile trip was business-related. Moreover, the manager did make work-related calls on the day in question. So, on balance, dismissal was too harsh a penalty.

[*Graham v. Cuddy Food Products*, [2003] O.J. No. 2432]

FALSIFYING EXPENSE REPORT IS JUST CAUSE

SITUATION

A group sales representative for an amusement park pays a $300 fee to join a board of trade so he can develop business contacts. He knows his supervisor will deny the fee as a business expense—and rightfully so. So, he inflates mileage claims on his expense reports to get back the money. When confronted, the representative admits to falsifying his mileage claims but claims that it was his supervisor's idea. The employer fires the representative without notice for dishonesty. The representative sues for wrongful dismissal.

RULING

The Ontario court rules that lying on the expense report was just cause for termination.

EXPLANATION

"Dishonesty by itself is insufficient to create just cause for dismissal," said the court. "The ultimate issue," it continued, "is whether the proved dishonesty establishes a breakdown in the employment relationship." Here, the representative's acts weren't only dishonest, but also criminal. He knew that he wasn't entitled to reimbursement for the membership fee but knowingly falsified his expense reports to recoup the expense. The court acknowledged that "the amount embezzled was only $300." But it pointed out that the representative was in a position of trust and had access to several thousand complimentary entry tickets to the amusement park (worth $40 each), which have considerable potential value on the black market. So, the court reasoned that the representative's dishonesty "destroyed the position of trust" his employer fairly demanded of him.

[*Cosman v. Viacom Entertainment Canada Inc*., [2002] O.J. No. 1828]