

Is Throwing Cup Grounds for Termination?



A cook is scolded for talking about his schedule while he's still on the clock. He responds angrily by hurling a plastic cup. It's the second time he's lost his cool and engaged in a juvenile fit of temper at work. So the restaurant fires him. He claims wrongful dismissal and sues for damages.

Question: Who won?

Answer: The cook. From the facts we described, it sure sounds like the restaurant had just cause. But as in most termination cases, there were "mitigating" factors at work:

- Although it was the cook's second angry outburst on the job, he hadn't been disciplined for the first;
- He was a very good cook; and
- He apologized the very next day.
- the arbitrator added, who apologized the next day.

Result: The arbitrator knocked the penalty down to a 2-day suspension [*Swiss Chalet Restaurant 1178 v. United Food and Commercial Workers Canada Local 206 (Orrell Grievance)*, [2012] O.L.A.A. No. 309, July 24, 2012].

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