Not Discrimination to Fire Employee with Anger Management Issues

Violent, disruptive and insubordinate actions committed by employees who can't control their temper are grounds for discipline. Or are they? Human rights law require employers to accommodate employees with "disabilities." Do anger management issues constitute a "disability" requiring accommodations under the law? Here's how an Ontario court answered this crucial question.

THE CASE

What Happened: May 22, 2008 was a bad day for an Ottawa police officer. In the morning, he failed his use of force test and had to hand in his gun. A gentleman of ill temper, the officer erupted in anger upon learning the news. That night, police had to respond to a 911 domestic violence call at the officer's home. It took 4 officers and a taser to subdue the officer. After pleading guilty to violating the *Police Services Act*, he was fired. He appealed, claiming that his anger management issues were a disability that the police department had to accommodate.

What the Court Decided: The Ontario Superior Court of Justice disagreed and upheld the termination.

How the Court Justified Its Decision: A nasty temper isn't a disability under human rights laws, according to the court. The officer also claimed that he suffered from alcoholism and drug addiction which *are* disabilities under human rights law. But there wasn't enough evidence to prove the officer had an addiction. So the officer wasn't entitled to accommodations and there was just cause to fire him. The court also ordered the officer to pay $10,000 to cover the department's legal fees. *Gulick v. Ottawa (City) Police Service*, [2012] O.J. No. 4621, Oct. 3, 2012.

IMPACT ON YOU

The most important aspect of the *Gulick* case is the rejection of the argument that anger management is a disability. To have found otherwise would have opened the way for employees with self-control and temper issues to use the discrimination laws to avoid discipline—a ruling that would have undermined efforts of employers to eliminate violence, intimidation and harassment from the workplace.

There were other factors at work: First, the violent behaviour that cost the officer his job occurred at his home while he was off duty. Normally, these would be

considered “mitigating” factors warranting a less severe penalty.

But the mitigating factors were more than offset by an important “aggravating” factor: The fact that the employee was a police officer. Although not acceptable from any employee, violent conduct is particularly egregious and apt to irrevocably breach an employer’s trust when it’s committed by a police officer.