Nuclear Plants Can’t Do Random Drug Testing Until Privacy Issues Are Resolved



After 10 years of study, the Canadian Nuclear Safety Commission issued a regulation requiring nuclear power plants to perform random alcohol and drug testing on safety-sensitive workers. As expected, when plants implemented testing policies under the new regulation, the unions grieved. They also asked the arbitrator to “stay,” that is, bar enforcement of the policy until a ruling on the merits of the grievance. Courts and arbitrators don’t like to issue stays and will only do so when it’s necessary to prevent “irreparable harm.” The arbitrator ruled that the unions’ members would, in fact, suffer irreparable harm if they were forced to participate in a testing regime later found to be illegal. Money damages after the fact wouldn’t make up for the privacy intrusions they’d suffer, the arbitrator reasoned [*Ontario Power Generation, Bruce Power, Power Workers’ Union, Society of United Professionals, The Chalk River Nuclear Safety Officers Association and International Brotherhood of Electrical Workers, Local 37 v Canadian Nuclear Laboratories and New Brunswick Power*, 2021 CanLII 65284 (ON LA), July 8, 2021].