OK to Fire Safety-Sensitive Worker for Not Being Fit for Duty



A safety-sensitive tree utility worker got fired for flunking his drug test. The Nova Scotia labour standards officer found that there was no just cause to terminate, but the employer got the last laugh when the board upheld its appeal. There was no doubt that the worker's THC levels were above the limits in the employer's fitness for duty policy, as well as the *Criminal Code* for legal operation of a vehicle, including the truck he was driving before getting tested. The fitness for duty policy was a valid safety measure that the worker was fully aware of. And while it was just a first offence, the violation was serious enough to warrant immediate termination, the board concluded [*Asplundh Tree Service ULC v Chipman,* 2021 NSLB 81 (CanLII), October 1, 2021].