

Unsupported Suspicions Not Enough to Require Post-Incident Drug Testing



A safety-sensitive refinery worker was the prime suspect for inflicting roughly \$1,100 worth of bumper damage to a truck he admitted to commandeering for personal use during his shift. As a result, he had to undergo testing, which came back positive for marijuana, ultimately leading to his termination. No dice, said the Saskatchewan arbitrator. For one thing, the employer's suspicions which weren't supported by any other evidence, wasn't adequate grounds to make the worker submit to post-incident testing; and even if they had been, the positive test didn't prove he was high because the company's metabolic standards for impairment were too low. By the same token, the worker deserved to be disciplined for lying about his marijuana use. But the arbitrator knocked the penalty down to a 6-month suspension, provided that the worker submit to and pass random testing for 12 months after he returned [[Gibson Energy \(Moose Jaw Refinery Partnership\) v Unifor, Local \(Mike Chow\)](#), 2021 CanLII 16446 (SK LA), February 16, 2021].