Was Terminating Employee After 36 Months of Disability Leave Discrimination?



After 36 months of disability leave and no prospects, an employer decided enough is enough and terminated an administrator's employment. The union claimed the employer violated its human rights law duty to accommodate the administrator, noting that she was about to get neurosurgery to fix her spinal issues. But the Québec arbitrator tossed the grievance, citing the employer's patience, repeated efforts to accommodate the administrator and its lack of knowledge about the upcoming surgery when the termination decision was made. Based on what it knew at the time, the employer was justified in concluding that continuing to wait for the administrator would constitute undue hardship, the arbitrator concluded [*Syndicat Du Personnel Administratif du CIUSSS Centre-Sud-De-l'Île-De-Montréal, Local 4628 c Centre Intégré Universitaire de Santé et de Services Sociaux du Centre-sud-de-l'Île-de-Montréal*, 2021 CanLII 102907 (QC SAT), October 18, 2021].