

Which Senior Employee Was Constructively Dismissed?



Constructive dismissal occurs when an employer indicates via its conduct that it no longer intends to be bound by the original employment contract. In that case, an employee may either accept the employment contract change or treat the conduct as a repudiation of the employment contract and leave the company. Constructive dismissal may also be the result of a toxic work environment. In the real world, these branches of constructive dismissal tend to co-mingle. After all, a workplace and coworkers feel a lot more toxic to an employee who thinks the company is forcing them out the door. In a constructive dismissal case, the key question is whether these perceptions are justified. Here's a look at 2 cases involving similar situations but contrasting outcomes.

Employer DID Constructively Dismiss Employee

Here's a case where a court held that a company really was forcing an employee out and creating a hostile work environment in the process.

Situation

A senior bookkeeper loved her job until the day she had a nasty confrontation with the company president over an accounting error. From then on, she claimed, the work atmosphere became toxic. Her coworkers with whom she had previously enjoyed a collegiate relationship began to shun her. In an email to HR, the president reluctantly approved her previous request for a raise, noting that it's "not going to make a huge difference at this point" and that "we are officially in the hunt" for a replacement. Things came to a head when the company forced her to share her office with a junior employee who also took over her much larger desk. Unable to bear the humiliation any longer, the bookkeeper left the firm 3 days later and sued for constructive dismissal.

Ruling

The BC Provincial Court ruled that the bookkeeper was constructively dismissed and awarded her 3 months' termination notice.

Reasoning

The court concluded that the bookkeeper was justified in concluding that the company

had signalled its intention to no longer be bound by her contract and that her work environment had become hostile:

- She knew the president disliked her and disapproved of her work.
- She, rightly, suspected that the company was looking to replace her.
- She was stripped of certain responsibilities, including her supervisory role over the office's Administrative Assistant.

Being evicted from her own desk and forced to share her office with a new junior employee was the last straw. This "signaled to everyone in the office that the bookkeeper had been demoted; that she had been replaced by a much younger person who had been given her desk, and that she was a much less-valued employee." But while it amounted to constructive dismissal, the court held that the company's conduct wasn't egregious enough to warrant punitive damages.

[Soler v. Professional Components Ltd.](#), 2025 BCPC 120 (CanLII), July 2, 2025.

Employer Did NOT Constructively Dismiss Employee

Here's another case where an employee in a similar situation was unsuccessful in suing for constructive dismissal. **Note:** Although this case also comes from BC, the basic rules addressed in both rulings apply in all parts of the country.

Situation

A chief estimator (CE) had a running disagreement with management over department and company estimation procedures. The tension escalated when the new general manager (GM) invited all department heads except the CE to a meeting. The GM apologized for what he said was an honest oversight. But added to the company's continuing failure to follow his procedures, the incident strengthened the CE's suspicions that he was being pushed out. Things went from bad to worse when the CE began to clash with his subordinate, who also happened to be the only other employee in the department. The CE complained about the subordinate's rudeness, insolence and harassment. After a business coach failed to resolve the problem, management moved the subordinate to a separate workstation. But while physically separated, the 2 men still had to work together to do estimates every day. Eventually, the CE left the company and sued for constructive dismissal.

Ruling

The BC Supreme Court ruled that the CE wasn't constructively dismissed.

Reasoning

The court concluded that the company didn't demonstrate an intent to repudiate the CE's contract and that the clash between the CE and his subordinate, while unpleasant, didn't make the work environment intolerable:

- The company didn't eliminate or make any fundamental changes to the CE's position or compensation—mere suspicion that the other shoe is about to drop isn't an actual change in employment constituting constructive dismissal.
- The department head meeting non-invite wasn't a deliberate snub but an honest mistake for which the GM apologized.
- The CE's demands that the company discipline the subordinate for insubordination, insolence and inappropriate behaviour "were disproportionate to the alleged transgressions".
- The company handled the CE's complaints "promptly and with due consideration".

- The company neither condoned nor rationalized the subordinate's inappropriate behaviour.

Unfriendliness, confrontation "or even some hostility and conflict" between coworkers isn't constructive dismissal when the employee is still able to perform the job, as was the case in this situation, the court reasoned.

[*Baraty v Wellons Canada Corp.*](#), 2019 BCSC 33 (CanLII), January 11, 2019.