

Worker's Destruction of Concrete Wall Was Deliberate, Not Accidental



A worker knocked over the concrete wall of a bunker with the bucket of the front-end loader he was operating. The employer claimed he did it on purpose. In the resulting he-said/he-said case, the Ontario arbitrator found the worker's denial less credible and upheld termination. What made the employer's story more believable was the worker's disciplinary record and documented pattern of refusing to accept authority and the fact that one blow wouldn't be enough and that it would require repeated blows to destroy the wall. Moreover, he had stubbornly tried to keep the employer from erecting the bunkers on supposed safety grounds while serving as a worker member of the worksite JHSC [[Regional Municipality of Durham v CUPE, Local 1785](#), 2021 CanLII 1348 (ON LA), January 7, 2021].