

Dismissed employee awarded 5 times their salary!

Only considering termination costs by looking at minimum standards or common law notice? Think again. If an employee's termination relates in any way to a prohibited ground of discrimination (including but not limited to disability, real or perceived) or the employee is not properly accommodated during employment, your Company may be on the hook for much, much more than notice as highlighted by this recent Ontario case.

A data entry clerk was earning \$12.85 when she became deaf in 2010. The judge found that once the employee became deaf, the employer failed to adequately accommodate her disability. She was subsequently terminated for cause for reasons unrelated to her disability. Shortly after the termination, the employee suffered a medical disorder.

The judge ruled on the following issues:

1. **Wrongful Dismissal Damages:** The judge found that the employer did not have just cause to terminate the employee. Given her almost 16 years of service, and her age (59), she was awarded 24 months' notice and \$6000 in lieu of benefits.
2. **Human Rights Damages:** For the injury caused to the employee's dignity and self-respect (i.e. the employer's failure to accommodate), the judge awarded the employee \$30,000.
3. **Mental Distress:** Given the judge's conclusion that the employer's conduct caused the employee to suffer a provable mental disorder, he awarded the employee almost \$19,000 for the cost of her treatment.
4. **Punitive Damages:** The judge did not believe the other awards punished the employer enough and he therefore ordered an additional \$15,000 in punitive damages.

Oh, did we say 5 times the employee's salary was awarded. We should also add that in addition to the \$110,000 the judge awarded the employee (who was earning approximately \$22,000 per year) \$40,000 in costs!

For more information on your accommodation obligations or the costs associated with terminating a particular employee please do not hesitate to set up an appointment to speak with an e2r Advisor.