

Supreme Court Rules Drug-Addicted Worker Terminated for Policy Breach, not Discrimination

The Supreme Court of Canada has ruled that an employee's termination was not discriminatory despite his acknowledged drug addiction in a landmark decision involving drugs in the workplace.

Ian Stewart was employed by Elk Valley Coal Corporation, a mine in Alberta, as a loader. He was involved in a collision with another truck while at work, tested positive for cocaine post-incident and was subsequently terminated for not disclosing his drug use. Following his termination, Mr. Stewart told Elk Valley that he was addicted to cocaine. He admitted that while he did use cocaine on his non-working days, he was in denial about having an actual addiction until after he was dismissed. He then alleged that his termination constituted discrimination as it related to his addiction which is classified as a disability, a protected ground under human rights legislation.

Elk Valley's position was that Mr. Stewart was terminated for his failure to comply with policy and not on the basis of his addiction. Given the safety-sensitive nature of the environment, the Company had a very clear policy of disclosure when it came to drugs and alcohol in the workplace. Employees were required to divulge their dependency or addiction issues prior to any incidents; those who did would be accommodated in accordance with the Company's obligations under human rights legislation and those who did not would be disciplined up to and including termination for cause. Mr. Stewart had attended training on this policy and acknowledged his understanding, but still failed to disclose his dependency until after the accident occurred.

The case made its way through Alberta's human rights process and appeal courts, and all have upheld the Company's position that Mr. Stewart was terminated for his breach of policy and not for his disability. In an 8-1 decision last month, the Supreme Court agreed. While there was no disputing Mr. Stewart was addicted to cocaine and had a disability, the Court found he still had the responsibility to disclose his addiction to his employer. Mr. Stewart's initial denial about his addiction was irrelevant; he should have known not to take drugs before work, that he was responsible for attending at work fit to work, and that his duty to make his addiction known still existed in accordance with Company policy.



This case emphasizes the effectiveness and importance of a well-crafted policy regarding drugs and alcohol in the workplace. That said, drug testing and the accommodation of addiction remains a complicated area to navigate. If you require guidance or a policy on this subject, please schedule a call with an Advisor.

