News

Court Upholds Discharge for Sexual Harassment

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In a recent decision, the Ontario Divisional Court found that the discharge of an employee (grievor) who had sexually harassed a co-worker was an appropriate penalty. An arbitrator's decision reinstating the grievor had relied on irrelevant factors and therefore fell outside the range of possible defensible outcomes.

The irrelevant factors considered by the arbitrator included the complainant's view that the grievor should not be terminated and the finding that another co-worker, who had also been harassed by the grievor, was able to get the grievor to stop his objectionable behaviour. The Court said that consideration of these factors was a step backwards in the law regarding workplace harassment and inconsistent both with an employer's obligations to provide a safe workplace under the *Occupational Health and Safety Act* and an employee's right to work in a workplace free of harassment.

A more detailed discussed on this decision is found in our Case in Point blog post, "Is it Appropriate to Reinstate an Employee Whose Employment Was Terminated as a Result of Sexual Harassment?"