News

No Damages Awarded For Failure to Mitigate By Declining Job with Former Employer

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In a recent decision of the Court of Appeal for Ontario, Chevalier v. Active Tire & Auto Centre Inc., the Court upheld a trial judge's finding that an employee who refused an offer of re-employment with his former employer was not entitled to damages: there was no evidence that had he returned to that workplace, he would be subjected to a poisonous work environment.

The employer had laid off the employee in the honest belief it was entitled to do so. After being laid off, the employee brought an action for constructive dismissal and the employer offered to return him to work, an offer the employee refused. By declining to return to work, the trial judge held that the employee had failed to mitigate and no damages were awarded. The Court of Appeal agreed and dismissed the appeal.

For a more detailed discussion of this case, see our Case in Point blog post "Court Weighs in on Mitigation and Returning to Work with Former Employer."