

Case In Point

Federal Court: Unjust Dismissal Complaint for Without Cause Termination Requires Evidentiary Hearing

Date: March 23, 2015

In a recent decision, [Sigloy v. DHL Express \(Canada\) Ltd.](#), the Federal Court overturned the decision of an adjudicator which had granted an employer's preliminary objection and dismissed a complaint of unjust dismissal for lack of jurisdiction because the complainant had been dismissed without cause.

At the adjudication, the employer objected to the unjust dismissal claim on the grounds that the complainant was dismissed without cause and was provided with his notice and severance entitlements pursuant to both the *Canada Labour Code* and a valid contract of employment. The employer further argued that the only allegation in the complaint was that the dismissal occurred without just cause. Referring to the Federal Court's decision in *Wilson v. Atomic Energy of Canada Ltd.*, the adjudicator upheld the employer's preliminary objection and dismissed the complaint on the basis that dismissals without cause were permitted under the *Code* and that the complaint contained no other allegations to suggest that the dismissal was "otherwise unjust."

In this case, the Federal Court applied the subsequent Federal Court of Appeal decision in *Wilson* and held that it is incorrect for an adjudicator to assume that a dismissal is automatically just if it occurs without cause and the complainant receives compensation that satisfies his legal entitlements. Rennie J. directed that "there must be an evidentiary inquiry, whether cursory or extensive, into the circumstances of the dismissal".

The Court set aside the adjudicator's decision on the basis that the parties had not turned their minds to the complainant's entitlement to an evidentiary hearing, which resulted in a breach of procedural fairness.

Interestingly, the Court indicated support for the "outcome" of the adjudicator's decision despite its finding regarding procedural fairness. The Court also directed that the adjudicator may determine the extent of the evidentiary hearing required in the circumstances but that it is a breach of procedural fairness to dismiss such a complaint on the basis of a "preliminary legal determination."