

## Deterioration of the relationship between employees: Just cause for dismissal?

In May 2016, the Alberta Court of Queen's Bench released its decision in *Turner v Atco Frontec Corp.*, 2016 ABQB 265. This case addresses an employer's right to dismiss an employee for cause in the situation where the relationship between two employees has deteriorated and cannot be resolved, because of the attitude and personality of an employee. The case also addresses whether the employer has an obligation to transfer such an employee to a different job or location rather than dismissing him/her.

In this case, the employee, John Turner, alleged that his employment as a transport dispatcher for Atco Frontec Corp. ("Atco"), as part of Canada's NATO operation in Bosnia, was wrongfully terminated. Mr. Turner was apparently dedicated and good at his job, but had a hot temper. He had in the past been issued a warning letter for his behaviour towards other employees.

Mr. Turner's dismissal was precipitated by two incidents with Elpis Florov, who was another transport dispatcher at Atco. Mr. Turner had apparently threatened Ms. Florov and called her a thief, which prompted Ms. Florov to make a formal harassment complaint. At a meeting to review the complaint, Mr. Turner was "aggressive and angry", and showed no desire to work out the situation between him and Ms. Florov. At the end of the meeting, Atco found that he had "conducted himself intentionally or unintentionally in a manner that could be deemed intimidating and threatening", but was unable to conclude he had harassed Ms. Florov.

Following the meeting, Atco terminated Mr. Turner's employment for cause, due to loss of confidence that he could interact appropriately with other employees.

### Just cause for dismissal?

Whether Atco had just cause to terminate Mr. Turner's employment was at issue because he had not been found to have harassed Ms. Florov. The Court had to decide whether an employer had just cause to dismiss an employee who shows contempt for previous intimidating behaviour towards another employee, and is unwilling to resolve the problem between them, having earlier been warned about his behaviour.

The Court found that Atco did have just cause to terminate Mr. Turner's employment. In coming to this conclusion, the Court was clear that the context of the work environment, where all employees lived and worked in camp, was relevant.

### Should Atco have moved Mr. Turner to a different job site?

The Court easily dismissed Mr. Turner's argument that Atco had a duty to try to move Mr. Turner to a different job, on the basis that in an employment contract dispute where there is no human rights issue, the duty of accommodation does not come into play.

### Conclusion

*Turner v Atco Frontec Corp.* demonstrates that in certain situations, an employer can dismiss an employee for just cause when there has been deterioration in that employee's relationship with another employee. However, the Court's emphasis on the camp working environment, on the intimidation of Ms. Florov, and on previous incidents between Mr. Turner and other employees, indicates that dismissals for this reason should be carried out cautiously and with a full assessment of the factors in play. It would likely be insufficient grounds for termination of employment with cause, if two employees simply did not get along.

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