

# AB Company Didn't Have Just Cause to Fire Safety Officer for Loss of COR



Safety professionals are typically responsible for various aspects of a company's OHS program, such as ensuring workers get appropriate safety training and updating safe work procedures when the OHS requirements change. As with any job, failing to fulfil these duties can result in discipline and even termination. But when does a company have just cause to fire its safety coordinator, manager, etc.? Here's a look at a case from Alberta involving the firing of a company's safety officer.

## THE CASE

**What Happened:** The duties of a company's safety officer included maintaining the company's Certificate of Recognition (COR), which gave it various benefits. For example, a company with a COR gets credibility as a leader in high safety standards, the ability to bid on certain government contracts and significant reductions in workers' comp premiums. When the company lost its COR due to the safety officer's failure to conduct required audits by an end-of-year deadline, it fired him for cause. It argued that the loss of the COR was 'potentially disastrous' because it jeopardized several government contracts. The company also argued that the safety officer not only failed to complete his COR recertification duties, but also deceived it as to the state of its prospects for recertification.

**What the Court Decided:** The Provincial Court of Alberta ruled that the company didn't have just cause to fire the safety officer.

**The Court's Reasoning:** The court acknowledged that the COR was a valuable asset for the company and that the safety officer was responsible for ensuring the company met the requirements to maintain certification. The company lost its COR because it didn't complete necessary internal safety audits in time or get an extension of the deadline. The court noted that, after several years of good performance, the safety officer had become very ill with an autoimmune disease. Also, his supervisor left the company and his new supervisor worked in another city, meaning they had minimal regular contact. In addition, although the company had hired an assistant to help the safety officer, it then fired the assistant.

But despite the lack of assistance available to him, the safety officer naively believed that he could either meet the audit requirements by the end of the year or get an extension of the deadline. However, the court said, 'Naivety is not dishonesty,' finding that the safety officer 'honestly believed that he would obtain this extension of time.' Moreover, since first earning the COR, the company began to take a different direction, expanding rapidly and taking on more employees, which increased the safety officer's responsibilities. And rather than giving him the additional help he needed, the company eliminated the assistance, supervision and support he required to handle the added duties. Thus, the court concluded that the safety officer's termination was without just cause [*Tipon v. Fleet Brake Parts & Service Ltd.*, [2017] ABPC 29 (CanLII), Feb. 10, 2017].

### ANALYSIS

The lesson from the *Tipon* case is that you can't simply assign employees certain duties and expect them to fulfill those duties without giving them the supervision, assistance, training, support and other resources they need to do their jobs. The safety officer's job performance wasn't in question when he was healthy, had an on-site supervisor and had the help of an assistant. It wasn't until the company increased his duties while cutting his support after learning he was sick that he began to struggle. And even after he begged the company not to fire his assistant because without her the COR application could be in jeopardy, this plea for help 'fell on deaf ears,' observed the court. In short, the company took no responsibility for its role in missing the COR deadline.

For more on CORs, see:

- The Pros & Cons of Getting a COR
- Don't Rely on COR for Due Diligence Defence.

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