Employer Failed to Accommodate Worker by Not Considering Alternative Jobs



A worker had knee replacement surgery and then went out on long-term disability because she couldn't perform her regular duties. After she saw a specialist, the disability carrier concluded that she could perform a sedentary job and so she was no longer disabled. The worker challenged this decision but the carrier refused to reinstate her benefits. At no time did her employer ask about her restrictions and what work she might be able to do. Instead, it fired her, claiming her 30-month absence had frustrated her contract. She sued for disability discrimination and the Human Rights Tribunal agreed that the employer didn't fulfill its duty to accommodate her. It decided to terminate her employment without asking her for any medical information to establish her restrictions and limitations, and without considering whether it had alternative employment within her restrictions [*Mould v. JACE Holdings (No. 2)*, [2012] BCHRT 77 (CanLII), March 15, 2012].