

Employer Pays The Price When Supervisor Tells Worker To Lie About Workplace Injury



There's a kernel of truth in every cliché, including the one about the coverup being worse than the crime. An Ontario employer just learned this lesson the hard way.

It began inauspiciously enough when workers dared an untrained colleague to climb up a 14-foot-high chain hoist. Of course, he accepted the dare; and, of course, he fell and suffered injuries requiring emergency surgery.

But it's what happened next that really got the employer into a mess. The supervisor who should have been looking out for the victim, laughed at his request to be taken to a hospital. When the victim insisted, the supervisor reluctantly agreed to give him a ride—not to the hospital but to another site where he could consult with a fellow supervisor. Knowing that they were facing big trouble, the supervisors told the victim to lie about the incident. Only after the victim agreed did they drive him home.

As it almost always does, the coverup unraveled, leaving the employer to face not just OHS but also negligence charges. The Ontario court ruled that because the supervisors acted within the scope of their employment, the employer was responsible for their 'reprehensible conduct.' The resulting \$150,000 negligence award would have been even higher had the victim's own negligence not contributed to his injuries [*Eynon v. Simplicity Air Ltd.*, 2021 ONCA 409 (CanLII), June 11, 2021].

Moral: How you react to a workplace incident may have as much impact on your liability as what you did or didn't do to prevent it. So, make sure your supervisors don't engage in the kind of CYA coverup that can cost your company hundreds of thousand or even millions in damages.