

Excessive to Fire Worker for Using Cell Phone in Violation of Policy



A worker was fired for using his cell phone on the manufacturing plant floor and in an oil shed during work hours and in violation of safety policy, which barred workers from using such devices in the plant. The union claimed termination was excessive. The arbitrator noted that two years prior the worker had been given a verbal warning about using his cell phone in the plant. In these incidents, he played a game on his phone while in the plant and then was seen talking on the phone while in the oil shed after getting a text from his wife. The worker was aware that using the phone in the plant violated policy. But the policy at the time wasn't clear that using cell phones was barred in the oil shed, too. And the supervisor didn't make it clear to the worker that he could face serious discipline for violating the cell phone policy. Given his 22 years of service and remorse, the arbitrator concluded that a 10 shift suspension and reinstatement without back pay was appropriate [*PGI Fabrene Inc. v. International Assn. of Machinists and Aerospace Workers, Local Lodge 2922 (Montgomery Grievance)*, [2013] O.L.A.A. No. 378, Sept. 16, 2013].