

Firing of College Custodians Caught Smoking Pot on Campus Upheld



College campus police caught two custodians smoking marijuana in a car while parked on campus and after having punched in for the start of their shift. When confronted by the police, they initially denied they'd been smoking marijuana. They later told their employer that they'd smoked a joint *before* they'd punched in and not on campus. The employer investigated, concluded they were lying and fired them. An arbitrator upheld their terminations. Although safe work practices are integral to the position of custodian, it can't be described as a 'highly safety sensitive' position as that term is generally used. Still, employees shouldn't perform such work, which is largely unsupervised, while impaired. In short, the combination of the virtually unsupervised nature of the work, and the workers apparent willingness to continue to lie about their substance use even when given numerous opportunities to tell the truth warrants what would otherwise appear to be an overly harsh penalty for a first offence by employees with significant service records, concluded the arbitrator [[Windsor \(University \) v. Canadian Union of Public Employees, Local 1001](#), [2017] CanLII 9594 (ON LA), Feb. 27, 2017].