

Inappropriate to Fire Electrician for Refusing Drug/Alcohol Test after Incident



An electrician was fired after refusing to take drug and alcohol tests after he backed a vehicle into another car, damaging its front bumper. The union challenged the application of the employer's drug and alcohol policy to these circumstances. The arbitrator explained that when a significant incident or near miss has occurred and there's no reasonable explanation for the worker's conduct that caused the incident or near miss, then the employer's interest in worker safety in a safety sensitive workplace trumps the individual worker's right not to be tested. But here, there was an explanation for the incident. The cause of the car accident was simply the electrician's carelessness, which he admitted. There was no evidence that drugs or alcohol contributed to the accident. No one believed the electrician was impaired and he gave no signs of impairment. In fact, after he refused testing, he was allowed to drive himself home. And he had no history of drug or alcohol abuse. So his privacy rights outweighed the need to eliminate drugs or alcohol as the accident's cause, concluded the arbitrator [[Jacobs Industrial v. International Brotherhood of Electrical Workers, Local 353](#), [2016] CanLII 198 (ON LA), Jan. 7, 2016].