

?It Was a Mistake? No Defence for Possessing Illegal Cannabis at Work



Screeners find a tinfoil packet containing a small amount of cannabis in the jeans pocket of an offshore platform millwright as he's boarding a helicopter. The millwright is fired for violating the employer's policy banning workers from possessing an illegal drug on company property. The millwright claimed the violation was accidental and that he didn't know he had the cannabis on him. But the arbitrator dismissed the grievance, saying that this was a strict liability policy, i.e., merely committing the banned act was a violation regardless of the worker's *mens rea*, i.e., intent or state of mind. The appeals court found the arbitrator's ruling unreasonable but the Court of Appeal had the final word and upheld the original arbitration decision. Reading the policy as a strict liability without need for *mens rea* was reasonable, the Court explained [*Terra Nova Employers' Organization v Communications, Energy and Paperworkers Union, Local 2121*, 2018 NLCA 7 (CanLII), Jan. 24, 2018]. (**Editor's Note: A policy banning possession of 'illegal drugs' like the one in this case may not work against possession of minimal amounts of cannabis once the drug is legalized in July.**)