

Near Miss = Grounds for Post-Incident Drug Testing



Two electrical workers had to undergo post-incident drug and alcohol testing after being involved in a near miss with a heavy vehicle. The union didn't argue that the testing policy itself was illegal; it claimed the company didn't have grounds to apply it in this situation since it resulted in only minor property damage. But the arbitrator disagreed. A near miss in which nobody gets hurt may be enough to trigger post-incident testing if it has the potential to cause serious injury. Moreover, the company didn't call for testing willy-nilly but only after making the determination that the incident was the result of human error, that drugs/alcohol *might have* caused that error and that testing should be used to rule out that suspicion. While acknowledging that it was a close case, the court found the arbitrator's ruling reasonable and refused to overturn it [[Canadian Energy Workers' Association v ATCO Electric Ltd](#), 2018 ABQB 258 (CanLII), April 4, 2018].