

# No Firing Worker When Another Worker Gets Written Warning for Same Offence



Discipline for safety infractions must be not only fair but also consistent. That's the moral of this case that began when a mining supervisor caught one of his workers operating a haul truck without wearing a seat belt. After ordering him out of the vehicle, the supervisor then discovered that the shoulder belt had been jammed into the retracting mechanism with the shoulder belt hanging loosely next to the operator's seat. The worker was fired for violating the company's strict mandatory seat belt policy and deliberately disabling a safety device. Normally, I would have upheld dismissal for this kind of violation, especially given the safety-sensitive nature of the workplace, said the arbitrator. The problem was that 8 months later, a worker caught using duct tape to disable the retracting device of his haul truck got off with just a written warning. So, what to do next? Firing the first offender was too harsh; but reinstating him after his serious safety offences was unrealistic. So, the arbitrator said the company had to pay him wrongful dismissal damages instead [[\*North American Mining Inc. v International Union of Operating Engineers, Local Union No. 955\*](#), 2018 CanLII 101945 (AB GAA), Oct. 26, 2018].