

Not Discrimination to Deny Safety-Sensitive Job to Med Marijuana User



After testing positive for THC, a worker conditionally offered the safety-sensitive position of Utility Person at a hydroelectric project admitted to using medical marijuana for osteoarthritis. Rather than instantly cancel the job offer, the contractor kept its head and requested medical information from the prescribing doctor so it could make an informed evaluation of his fitness for the job. Unsatisfied by the doctor's response, the contractor asked for more information and refused to let the applicant work any safety-sensitive job until it got the information it needed. The stalemate continued until the union lost patience and filed a grievance. The arbitrator sided with the contractor, finding that it had tried to accommodate the applicant but lacked the medical information make a full assessment. Letting an admitted medical marijuana user do a dangerous job without being able to assess his capabilities and fitness would impose undue hardship on the contractor [*IBEW, Local 1620 v. Valard Construction LP*, (Arb. John Roil, Q.C.), April 20, 2018].