

OK Not to Hire Applicant Accused but Acquitted of Crimes



Protections against employment discrimination on the basis of previous criminal record apply only when the crimes are unrelated to the job. But suppose a criminal record check finds that an employee was found not guilty of such crimes. Would the mere fact that the employee was tried be enough to justify termination? Yes, answered the BC Human Rights Tribunal in a case involving a social worker employed in a residential care facility for children who had previously been acquitted of sexual assault. The presumption of innocence in a criminal trial doesn't apply to an employer which has an obligation to protect its own stakeholders, in this case vulnerable children living in the facility. However, the Tribunal stopped short of dismissing the social worker's discrimination case outright because it was unclear whether the crimes for which she was tried were, in fact, related to her current employment [*Ashton v. IDM Youth Services and another (No. 2)*, 2018 BCHRT 110 (CanLII), May 11, 2018].