Probationary Worker Fired for Performance Not Use of OHS Pregnancy Rights



A senior home fired an attendant 10 days after she notified management that she was pregnant and wanted to exercise her OHS right to be taken off work dangerous to her unborn child. Under Section 255 of the Québec OHS Act, termination or other adverse action against a worker is presumed to be a reprisal if it happens within 6 months of the worker's exercising an OHS right. But CNESST ruled that the employer rebutted the presumption. First, termination came during the probationary period when employers have more leeway to evaluate a worker's suitability. And the evidence showed that it had ample reason to pull the plug on the attendant, including complaints from family members of patients about her inadequate care and testimony that she behaved inappropriately with co-workers and couldn't work as a team member [*Azeutsup et 9199-1109 Quebec inc. (Maison Vilar),* 2019 QCCNESST 208 (CanLII), August 8, 2019].