

Random Testing Policy Violates Coal Miners' Privacy



Random drug and alcohol testing pits workplace safety and employee privacy in direct opposition. On Dec. 7, just as the tide seemed to be turning in favour of employers, an Alberta court barred Suncor Energy from enforcing a random testing policy at oil sands sites. And now a BC arbitrator has struck down random testing for coal miners. Employees should have lower privacy expectations if they do safety-sensitive jobs, the mining company argued. But the arbitrator disagreed noting that it's not just the bodily fluids but all the personal information employees who test positive must reveal that makes random testing so intrusive. And because it's 'suspicionless,' random testing is justifiable only if the employer can show that there's an actual problem with drug/alcohol use—not simply that the workplace is dangerous. The coal mine in this case didn't meet its burden. There was no specific evidence tying any particular accident or injury to an employee who was under the influence of drugs or alcohol; and only 3% of all post-incident tests done at its 5 coal mines over a 5-year period had come back positive [*Teck Coal Ltd. (Fording River and Elkview Operations) v United Steelworkers, Locals 7884 And 9346*, 2018 CanLII 2386 (BC LA), Jan. 23, 2018].