Reduction of Disabled Worker's Pay Was Discrimination



A waste/wastewater operator who'd been a 29-year employee had a seizure while at work. His driver's licence was medically suspended as a result. After a brief convalescence, he returned to work and was able to resume all of his duties (except driving and occasional snow plowing). But his wage was reduced to the labourer's rate. He filed a grievance, arguing disability discrimination. An arbitrator upheld the grievance. The operator's disability could be'and had been'accommodated with no evidence of undue hardship to the employer. It then unilaterally and without consideration of the operator's specific situation reduced his pay. But in fact, there was no evidence of *any* hardship whatsoever'cost, risk, health and safety, or otherwise'and thus there was no basis for reducing his pay [*Chatham-Ken (Municipality) v. CUPE*, [2016] CanLII 76 (ON LA), Jan. 7, 2016].