Restaurant Properly Fired Worker It Couldn't Accommodate



A worker at a fast food restaurant injured her back lifting a filter pan from under the French fry vat. She received workers' comp and worked with a physiotherapist. She eventually could return to work but had a number of restrictions, such as she couldn't lift more than 10 pounds; twist or bend; or stand for longer than 10 minutes. The restaurant said it couldn't accommodate the complainant. She went on long-term disability and was later fired because the restaurant concluded she wouldn't be able to return to work, with or without accommodation. She sued for discrimination. The Human Rights Tribunal dismissed the complaint, ruling that the worker was incapable of performing the essential duties of her job with accommodation because of the nature of her physical restrictions at the time. Thus, the restaurant properly terminated the worker based on frustration of contract [*Gahagan v. James Campbell Inc.*, [2014] HRTO 14 (CanLII), Jan. 6, 2014].