

Worker with Asperger's Didn't Adequately Notify Employer of Disability



A call center fired a probationary worker who had Asperger's Syndrome. He challenged the termination, claiming his disability wasn't accommodated. An arbitrator ruled that the worker did have a recognized disability under human rights law. The worker had checked 'yes' next to having a disability on the job application diversity questionnaire. But this checkmark didn't require the call center to inquire any further into the nature of his disability. And when he later raised it at a meeting a week before he was fired, it was too late. So the duty to accommodate wasn't triggered. On appeal, the court held that the arbitrator had correctly applied the test for prima facie discrimination when the employer's knowledge of the disability is unclear. It also ruled that the arbitrator's decision that the worker had insufficiently disclosed his disability was reasonable. He'd remained silent about his disability through his coaching sessions and reviews and only raised it when it was clear he was going to be let go [*Telecommunications Workers Union v. Telus Communications Inc.*, [2013] ABQB 298 (CanLII), May 16, 2013].