

Zero Tolerance Drug Policy Must Accommodate Legal Use of Medical Cannabis



An airport ramp agent failed a post-incident drug test after accidentally damaging an airplane. The agent denied being high at work and claimed the positive test was caused by traces of medical cannabis that he used legally for a back injury away from work. But the employer was unpersuaded and fired him when he refused to sign a last-chance agreement and enter the company EAP. No dice, said the arbitrator and ordered the agent reinstated. Although the agent occupied a safety-sensitive position, the testing policy was overbroad and discriminatory. The moment it learned that the positive test was the result of legally authorized medication, it was incumbent upon the employer to accommodate the agent. But while it made accommodations for addiction, the policy didn't accommodate lawful use of medical cannabis for physical and mental ailments to the point of undue hardship as required by human rights laws [*Airport Terminal Services Canadian Company v Unifor, Local 2002*, 2018 CanLII 14518 (CA LA), March 15, 2018].