



WHEN DOES POST-TERMINATION CONDUCT AMOUNT TO CAUSE?

Can an employer justify an employee's dismissal for acts committed after he or she has been fired? The answer is: sometimes.

In the recent case of *Gillespie v. 1200333* the Court held that the employee's post-termination conduct was not sufficient to limit the employer's obligation to provide reasonable notice or pay in lieu of such notice.

The Employee was an occupational therapist. She did not get along with her co-workers or patients. The Employer terminated Ms. Gillespie because of her personality. The Employee removed confidential patient documents when she left the office after her employment was terminated.

The judge stated that there are limits on when post-termination conduct can be relied upon to establish grounds for dismissal and disagreed with the employer's assertion that Ms. Gillespie's post-termination conduct further demonstrated that her interpersonal issues made her unsuitable for the position. The Judge instead said that the Employer should have reported the Employee to the appropriate professional disciplinary body and brought proceedings against her under privacy legislation. He awarded her damages for wrongful dismissal.

The Employer's reliance on post-termination conduct might have been successful if the post-termination behaviour was related to and supported the reasonableness of the dismissal. Because it was not, Ms. Gillespie's post-termination theft of confidential information did not eliminate her entitlement to pay in lieu of reasonable notice.

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