



e2r Alert!

BC Human Rights Tribunal Awards Damages to Employee Returning from Maternity Leave

So, you have an employee on maternity leave and you like their replacement better? A case out of British Columbia shows that employers must be very careful how they approach employees returning to work from maternity leave.

Case Summary

Ms. LaFleche was working as a Marketing Manager for Prince George Ford in BC before she went on maternity leave. She had been employed by Prince George Ford for about 3 years. Prior to going on leave, Ms. LaFleche assisted with hiring and training her replacement who was hired on a temporary basis to cover her leave.

During the course of her leave, a new General Manager was hired who began working closely with Ms. LaFleche's temporary replacement on a new marketing strategy.

A few months before Ms. LaFleche was to return to work, she met with the new General Manager. In this meeting, Ms. LaFleche was told that her replacement was performing very well in relation to the new marketing strategy during her absence and so would be taking over some of the Marketing Manager duties on a permanent basis. Ms. LaFleche left the meeting with no clear understanding of what her role would be upon her return, but the general Manager assured her that they would follow up prior to her return to discuss her return further.

The General Manager did not follow up as promised and Ms. LaFleche did not reach out. Ms. LaFleche did not return to work and filed a human rights complaint asserting she had been constructively dismissed due to the change in her job duties as well as discriminated against based on sex and family status. Prince George Ford claimed that she could have returned to work but abandoned her position.

British Columbia Human Rights Tribunal Decision

The Tribunal agreed with Ms. LaFleche. Specifically, the Tribunal held that Ms. LaFleche experienced an adverse impact in her employment because her maternity leave was a factor in the decision to remove her from her Marketing Manager position, she was humiliated during the meeting where she was told her duties would change and she was constructively

dismissed. The Tribunal also stated that it was not Ms. LaFleche's responsibility to try and return to work in the undefined role.

The Tribunal awarded Ms. LaFleche \$12,000 for injury to dignity, feelings, and self-respect as well as over \$66,000 in lost wages, benefits and EI benefits relating to her second child.

As this case shows, navigating an employee's return to work after maternity leave, particularly where the employer wants to make changes to the role, can be tricky and costly!

As always, if you have any questions regarding a specific situation, please do not hesitate to reach out to speak with an e2r™ Advisor.