



e2r Alert!

B.C. Tribunal awards employer damages for employee 'time theft'

A recent decision (*Besse v. Reach CPA Inc.*) from British Columbia's Civil Resolution Tribunal ("CRT") has caught the attention of many - both locally and internationally - and in particular, those employers with remote workers.

Facts

Karlee Besse, an accountant, was terminated without cause after less than 1 year of service with Reach CPA Inc. ("Reach"). Besse claimed she was entitled to \$1,371.60 for unpaid wages and \$4,166.67 for one month's severance pay in lieu of notice, for a total of \$5,538.27. However, she limited her claim to \$5,000, which is the CRT small claims monetary limit.

Reach claimed that Besse engaged in time theft and therefore had just cause to terminate her employment, thereby disentitling her to severance pay in lieu of notice. Reach also denied owing her any unpaid wages and counterclaimed for \$1,506.34 for the paid wages it says amounted to time theft.

Decision

The primary issue before the CRT was whether Besse was wrongfully dismissed and entitled to severance, or whether Reach had just cause in terminating her employment.

Where an employer alleges just cause in dismissing the employee, the employer bears the burden of proving any misconduct on a balance of probabilities. Reach says its analysis of Besse's timesheets and TimeCamp data identified irregularities between her timesheets and the software usage logs. More specifically, it found Besse recorded 50.76 unaccounted hours on her timesheets despite it appearing that she did not work on work-related tasks during that time. Reach submitted videos showing how TimeCamp tracked Besse's time and activity. Reach used the videos to prove that Besse engaged in time theft by recording work time in her timesheets that was not tracked by TimeCamp.

The adjudicator noted that "trust and honesty are essential to an employment relationship, particularly in a remote-work environment where direct supervision is absent" and found Besse's misconduct led to an irreparable breakdown in her employment relationship with Reach and that dismissal was proportionate in the circumstances.

Takeaway

As such, Reach had just cause in terminating Besse's employment for time theft and was entitled to compensation for the 50.76 unaccounted for hours that Besse had submitted timesheets for. Accordingly, Reach was awarded \$1,506.34. In total, Besse was ordered to reimburse Reach for the time theft and the outstanding portion of the advance (\$2,603.07), pre-judgment interest under the COIA (\$28.82), and CRT fees (\$125) for a total of \$2,756.89.

...sounds like Besse's claim backfired (*pun intended*)!

In light of the growing number of companies using technologies to monitor its staff, employers should seek legal guidance with respect to their surveillance practices and ensure they follow privacy obligations both during and post-employment. Please do not hesitate to reach out to speak with an e2r™ Advisor with any questions.