



e2r Alert!

Employers, beware! “Just Cause” Termination Challenges Heard via Summary Judgment

In a recent Alberta decision, *McDonald v Sproule Management GP Limited*, the judge granted summary judgment instead of a trial to determine an employee's wrongful dismissal claim against their former employer after being terminated for “just cause.” This unique case sparks some interesting considerations for employers who may be contemplating termination for just cause.

First, *what exactly is summary judgment?* Summary judgment allows the Court to make a quicker decision on the outcome of a claim without the need for a full trial. Surprisingly, this case tells us that summary judgment can be appropriate for wrongful dismissal claims that contain just cause allegations. Ultimately, this allows employees access to a faster, easier, and more cost-effective process to formally challenge the just cause termination decisions of employers.

Facts of the Case

In this case, the employment of a senior accounting executive, Kevin McDonald, was terminated by Sproule Management GP Limited for just cause. McDonald sued his former employer, alleging wrongful dismissal and that he was entitled to significant severance pay.

In response to an application by McDonald to decide the case in his favour without a trial, the judge conducted a review of the court record and concluded that it was sufficient to grant summary judgment instead of sending the matter to trial.

While there was evidence that McDonald's poor performance and conduct were becoming serious, the judge also noted that Sproule's performance records had significant shortcomings when it came to Sproule's communication and conduct

toward McDonald. For example, Sproule failed to warn McDonald about his conduct on several occasions and failed to advise McDonald of the consequences if such behaviour continued. Ultimately, the judge concluded that there was no merit to Sproule's decision to terminate for just cause, and that Sproule had not established a genuine issue requiring a trial. McDonald was awarded 18 months' pay in lieu of notice.

Key Takeaways for Employers

1. Even in a case involving an allegation of just cause for termination with substantial evidence, the Court may determine that summary judgment is appropriate to fully determine a claim, rather than a trial. This makes the process substantially quicker, easier and more cost-effective for employees to challenge terminations. As a result, employers may take pause when evaluating the increased risks of terminating for just cause.
2. This case is also a good reminder that it is crucial for employers to clearly and regularly communicate expectations and consequences to employees when there is poor performance or behaviour. To be successful, it is important for employers to keep a careful written record of all disciplinary efforts, including verbal and written warnings where applicable, before resorting to termination for just cause.
3. Lastly, you should always ensure you have a valid and enforceable termination clause, as it would have been possible to argue that in the event there was no just cause then the termination provision would apply instead of common law reasonable notice (see *Pirani v. CIBC*, 2023 ONSC 5991 where this approach was supported).

If you would like to further discuss this case or its impact, please reach out to speak to one of our Advisors. We are happy to chat!