

Another Union Arbitration Win

AD worked for Canada Safeway as a cashier for three (3) years and was considered a good cashier with a good discipline record. She decided to go back to school to improve herself and became a Pharmacy Technician. She was hired by Canada Safeway in that capacity and worked for about a year. Her discipline record was clean.

One day a house that she shared with two (2) other individuals was raided by the R.C.M.P. who were searching for a "grow operation" for "magic mushrooms". She, along with the male residents were charged with cultivating and trafficking in magic mushrooms; a psychedelic drug. A few days later the raid and criminal charges were reported in the newspaper and the matter came to the attention of Safeway Management. Management clearly had concerns with the fact that AD was charged with a drug related offense and was working in a pharmacy. Nothing further happened for approximately two (2) weeks and the grievor continued working in her capacity as a Pharmacy Technician. Then one day out of the blue, AD was called into a meeting with Safeway Security and was told that the Company would no longer continue to employ her in the pharmacy and that she had two (2) alternatives:

1. She could take a suspension without pay pending the conclusion of the criminal charges, or;
2. She could take a voluntary leave of absence pending those same charges.

There were no other alternatives provided. Because she had only received the two (2) choices, AD chose to take the leave of absence so that she wouldn't have a suspension on her record.

The Union took the position that AD should have been entitled to continue working, notwithstanding the criminal charges, and that at the very least she should have been entitled to continue working in a job outside the pharmacy. A grievance was filed.

Between the time of the filing of the grievance and the time it was heard at arbitration, the Crown Prosecutor concluded that AD was not involved in the grow operation and the charges against her were eventually dropped. After the charges were dropped, Canada Safeway took her back to work but they were not prepared to compensate her for all of the money she lost by being out of work for many months.

The Union proceeded to arbitration on AD's behalf. We argued that the Employer was wrong to force the two (2) unfair choices on AD and that she should have been entitled to continue working in the pharmacy or alternatively in some other capacity with Safeway. Safeway on the other hand argued that they could not have put her into another position because they considered her to be untrustworthy. Arbitrator Ivankovich disagreed. He felt that she could have been moved to a different store and put into another job with no access to narcotics. He did not believe that she could not be trusted around product and cash simply because of the drug allegations. He pointed to the fact

that she had worked for a long time unsupervised as a cashier without incident and continued to work as a Pharmacy Technician for weeks after the charges without incident. He pointed to the fact that there was no evidence of any drugs or cash missing at any time.

Accordingly, Arbitrator Ivankovich determined that the grievor was entitled to "compensation reflecting the wages and benefits she lost and being deprived of the opportunity to work in some other position for the Company". This compensation was to cover the time period when she was off work prior to her criminal charges being dropped.

This is a good decision for Canada Safeway members because that Company has made it a habit of suspending those accused of criminal offenses pending the conclusion of their criminal cases without regard to whether or not having them continue working would cause serious disruption or risk to the Employer. It is clear now that if they do not pay attention to this issue, it will become very, very expensive for them.