



What's New in HR Law

Long-Term Supervisor of Furniture Chain Gets Too Comfy and Is Fired for Cause

November 22, 2022 | By [Darren Avery](#)

Bottom Line

The Ontario Superior Court of Justice (the “Court”) in *Savarie v. Leon’s Furniture Limited*, 2022 ONSC 6116, recently upheld the “for cause” termination of a long-service managerial employee.

Background Facts

The case involved a wrongful dismissal claim commenced by a former Area Supervisor (the “Employee”) for Leon’s Furniture Limited (the “Employer”). The Employee had been dismissed for cause in November 2018.

In September 2018, the Employee became the subject of an extensive investigation into a number of business irregularities, which included various furniture purchases made by him at significantly reduced prices. The investigation found that the Employee had violated several company policies by engaging in the following misconduct:

- Substantially marking down numerous furniture items and then purchasing them “for a friend”, while failing to seek the required approval from head office;

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- Failing to disclose his romantic relationship with the owner of a company that provided cleaning services to the Employer as a potential conflict of interest;
- Instructing a subordinate manager to lower the price on damaged inventory, purchasing said inventory for himself, then having the same manager send service people to attend the Plaintiff's house and repair the damaged inventory at the Employer's expense; and
- Facilitating the return of damaged inventory in place of brand new inventory by the father of his romantic partner – and approving a full refund for the damaged inventory – and then repairing the damaged item, once again, at the Employer's expense.

As part of the investigative process, the Employee was invited to meet with senior management to respond to the allegations of misconduct. The first meeting with the Employee was cut short by the Employee, who claimed he felt ambushed. The Employer rescheduled another meeting about a week later and, at this second meeting, the Employee baldly denied the allegations against him. A third and final meeting was scheduled later that same month, providing the Employee with one more opportunity to respond to the allegations against him.

Upon the conclusion of this final meeting, the Employee was informed that his employment was being terminated for cause. At the time of his employment termination, the Employee was 49 years old, was overseeing seven of the Employer's stores, and had been with the Employer for over 29 years.

Termination Upheld

The Court applied a two-step test in determining whether just cause for dismissal was established at law.

First, the Court considered whether the Employee had engaged in misconduct. At trial, counsel for the Employer vigorously cross-examined the Employee and the Employee admitted that the alleged conduct would constitute a breach of the Employer's policies. The Court also expressed serious concerns about the Employee's credibility, leading the Court to prefer the evidence of the Employer's witness where the Employee's testimony conflicted with the testimony of the Employer's witness. Ultimately, the Court found that the Employee was guilty of serious misconduct due to his breaches of company policies over a lengthy period of time, which included breaches of trust, ethics, and integrity. The Plaintiff was found to have defrauded the Employer for personal benefit and abused his position of authority.

Second, the Court assessed whether the nature and degree of the Employee's misconduct warranted summary dismissal. In reviewing this issue, the Court ruled that due to the nature and seriousness of the breaches and dishonesty by the Employee, the employment relationship could not be reconciled. The Court went on to note that the Employee's misconduct went to "the very core of the employment relationship" to such a degree that it would be impossible for the Employer to ever trust the Employee again.

Check the Box

The Court's decision highlights a few key considerations for employers when responding to employee misconduct and taking related corrective action:

- Properly investigate suspected issues prior to "pulling the trigger" on an employment termination. Such investigation should ideally include putting allegations of the suspected issues to the employee under investigation and giving them the opportunity to respond (which may require multiple investigation meetings).

- Have company policies in place — both those that are more general in nature (such as conflict of interest policies) and those with rules specific to an employer’s operations.
- Remember that “for cause” terminations can be appropriate, but only in specific cases.

Need More Information?

For more information or assistance with employment terminations and related litigation, contact [Darren Avery](mailto:davery@filiation.on.ca) (davery@filiation.on.ca) or [Hina Saeed](mailto:hina@filiation.on.ca) (hina@filiation.on.ca), who acted for the Employer in this matter.



Toronto
Bay Adelaide Centre
333 Bay Street
Suite 2500, PO Box 44
Toronto, Ontario M5H 2R2
tel: 416.408.3221
fax: 416.408.4814
toronto@filiation.on.ca

London
252 Pall Mall Street, Suite 100
London, Ontario N6A 5P6
tel: 519.433.7270
fax: 519.433.4453
london@filiation.on.ca

Hamilton
1 King Street West
Suite 1201, Box 57030
Hamilton, Ontario L8P 4W9
tel: 905.526.8904
fax: 905.577.0805
hamilton@filiation.on.ca

Kitchener-Waterloo
137 Glasgow Street
Suite 210, Office 175
Kitchener, Ontario N2G 4X8
tel: 519.433.7270
fax: 519.433.4453
kitchener-waterloo@filiation.on.ca