

Pre-employment Drug Testing Decision Affirmed (An Update)

On May 29, 2008, the Supreme Court of Canada dismissed an Alberta appeal involving pre-employment drug testing.[1] It confirmed an Alberta Court of Appeal decision that holds that pre-employment drug testing does not discriminate against casual drug users.[2] Chiasson was fired from KBR, a construction company, when he tested positive for marijuana in a pre-employment drug test. Chiasson filed a human rights complaint, claiming that KBR was discriminating against him based on a physical and mental disability - his recreational drug use.[3] While Chiasson was unsuccessful at his initial hearing at the Alberta Human Rights Commission, Chiasson won at the Alberta Court of Queen's Bench.[4] The Court of Appeal decision reversed the decision, saying that KBR's policy was legitimate as it was aimed at promoting safety. The court was not prepared to find that human right protections extended to recreational cannabis use, an activity that could potentially harm others while on the job.

Further Reading:

- Florence Loyie, "Court backs sacking man for casual cannabis use" Edmonton Journal (May 30, 2008).
- Nayha Acharya, "[Seeking guidance from the Supreme Court: Is Worker Drug Testing Okay?](#)" (April 5, 2008).

[1] Supreme Court of Canada, Judgments in Appeals and Leave Applications.

[2] Alberta (Human Rights and Citizenship Commission) v. Kellogg Brown & Root (Canada) Company, 2007 ABCA 426.

[3] Human Rights, Citizenship and Multiculturalism Act, R.S.A. 2000, c. H-14, s. 7.

[4] [Alberta \(Human Rights and Citizenship Commission\) v. Kellogg Brown & Root \(Canada\) Company](#), 2006 ABQB 302.