

## Just Cause - It's Not Dead Yet

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A pair of recent Ontario Superior Court of Justice decisions have confirmed that the concept of just cause is not dead yet in Ontario.

In *Mitrovich v. Appello Windows and Doors*, [2005] O.J. No. 3869, an employee who had just been recently hired by the employer in their finance department had become fixated on allegations of fraud against her superior. The employer initially took the allegations of fraud seriously and after conducting a number of investigations, could not find evidence of actual fraud. Eventually, the employer ordered the employee to cease any further investigations and conduct her regular work. The employee ignored these orders and continued to investigate her supervisor, which prevented her from getting her regular work completed and caused a significant disruption in the office.

The court found that the employer was justified in terminating the employee. The court found that the fixation of the employee on her supervisor had made it impossible for her employer to retain her as an employee.

In *Paterson v. DaimlerChrysler Canada Inc.*, [2005] O.J. No. 3817. A senior executive of DaimlerChrysler attended an adult entertainment establishment at the expense of a supplier to DaimlerChrysler. He did not record this in his entertainment log. Unbeknownst to the employee, the supplier was concealing the entertainment expenses in billings to DaimlerChrysler. This resulted in an investigation and an audit of the suppliers. During the course of the investigation, the employee did not disclose that he had been in attendance at the adult entertainment establishment. Eventually, he was asked directly whether he was in attendance at the adult entertainment establishment and the employee lied and said he was not. In addition, he knew of an improper loan to a subordinate and took no steps to report it or discipline the subordinate.

The court held that when the employee's bond of trust and loyalty to DaimlerChrysler was tested, the employee opted to conceal information and ultimately lied in order to protect himself and his subordinate. The employee's misconduct was irreconcilable with the continuation of the employment relationship.

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