

Administrative driving suspension not just cause to dismiss assistant fire chief

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An assistant fire chief has won a wrongful dismissal suit after he was fired after receiving a 90-day administrative driving prohibition for impaired driving while off duty.⁽¹⁾

The assistant fire chief was travelling home from a so-called 'date night' with his spouse when he was pulled over for suspected impaired driving. He failed two roadside breathalyser tests and received an administrative driving suspension. He immediately advised the fire department and was distraught and remorseful.

Although the fire chief and HR adviser advised against firing him, and a number of firefighters signed a letter asking that he not be fired, the fire department's chief administrative officer was adamant and dismissed him.

The court held, for the following reasons, that the fire department did not have just cause for dismissal:

- The assistant fire chief was off duty and was not representing the fire department at the time.
- While the vehicle that he was driving belonged to the fire department, it was not marked as such.
- There was no public knowledge of his administrative driving prohibition.
- His conduct was not of the same "moral reprehensibility" as in other cases where employees' off-duty conduct was just cause for dismissal.
- The assistant fire chief was not the public face of the fire department.
- The other firefighters in the fire department had not lost confidence in him.
- There was no criminal charge, but rather he received a 90-day driving suspension.

In conclusion, the court held that his off-duty conduct was not incompatible with the faithful discharge of his duties or otherwise prejudicial to the interests or reputation of the fire department.

The court awarded the assistant fire chief five months' salary as provided for in his employment contract.⁽²⁾

For further information on this topic please contact [Adrian Miedema](#) at Dentons Canada LLP by telephone (+1 416 863 4511) or email (adrian.miedema@dentons.com). The Dentons Canada LLP website can be accessed at www.dentons.com.

Endnotes

(1) *Klonteig v West Kelowna (District)*, 2018 BCSC 124 (CanLII).

(2) For more information please see www.occupationalhealthandsafetylaw.com.

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