

Newsletter



Robinson Sheppard Shapiro
Avocats • Lawyers

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Shall I stay, shall I move... and what about the relocation allowance?

In an earlier bulletin, we reminded that the duty of loyalty, implicit in any employment agreement under article 2088 of the Civil Code of Quebec, requires the employee's constant and flawless honesty with the employer. Severe breaches from this duty may lead to dismissal, as seen in an arbitration award issued last November (Bautista et WestJet Operations Corp., 2017 QCTA 872).

In the course of restructuring its operations, the airline carrier WestJet implemented a system of multiple bases of operations. To induce its staff to relocate in cities where such bases were located, WestJet offered payments of \$12,500 as lump sum bonuses. The employee, who was domiciled in Montréal, decided to accept this offer and informed her employer that she was moving to Toronto.

Following an information complaint, the employer conducted an investigation that revealed that the employee was still residing in Montréal and had not moved. She had merely made arrangements to rent a room at a colleague's place for those occasions where her work schedule prevented her from returning to Montréal.

WestJet determined that the employee's acceptance of the offer was fraudulent and terminated her for cause. She replied with a complaint for unjust dismissal.

The decision

The arbitrator ruled that the employee had committed a severe error. No extenuating circumstances could be invoked to justify a lesser sanction.

WestJet was not required to apply a gradation of penalties.

In the circumstances, dismissal was a fair and appropriate measure. The employee's behaviour demonstrated a lack of integrity likely to undermine the trust relationship with the employer.

The employee knew the conditions of the relocation policy, which was not



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subject to interpretation. She also failed to invoke the refund rules implemented by WestJet for those cases where an employee has to abandon relocation projects after having received the bonus.

The arbitrator dismissed the complaint and confirmed the termination.

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