

Summary of CW v. IFC, Decision No. 516 [2015]

The Applicant challenged the: a) 13 May 2014 institution of an Opportunity to Improve Unsatisfactory Performance Plan (OTI); b) 2 June 2014 closure of the OTI and recommendation of termination; c) 3 June 2014 decision of the Vice President, Human Resources (HRVP) finding misconduct and imposing sanctions; and d) the 7 July 2014 Notice of Termination. The Applicant also contended that the EBC investigation which preceded the sanctions was wrongful.

The Tribunal found that the disciplinary sanctions imposed on the Applicant were reasonable and proportionate to the misconduct he committed, and that the EBC investigation was conducted in accordance with proper procedure. According to the Tribunal, there was no evidence that the Applicant's due process rights were violated.

The Applicant further asserted that his managers "abusively pursued an unwarranted fitness for duty examination" during the EBC investigation, and that he was subjected to a hostile work environment. The Tribunal held that the request for a fitness for duty assessment was not an abuse of managerial discretion. The Tribunal further held that the record did not support the Applicant's claims of a hostile work environment.

Regarding the OTI and its termination the Tribunal was satisfied that the decision to end the OTI was a reasonable exercise of managerial discretion. The record showed that the Applicant continued to conduct himself in a manner which was inconsonant with the OTI and which was not conducive to a professional work environment for him and his colleagues. Finally, on the decision to terminate the Applicant's employment contract, the Tribunal held that by terminating the Applicant's employment for unsatisfactory performance, the IFC did not violate his contract of employment or terms of appointment. The Tribunal held that the record showed that the Applicant's management made every reasonable effort to support him. While the Applicant had grievances these grievances did not exempt the Applicant from the requirement to conduct himself professionally in the workplace.

The Application was dismissed.