

This is a ground breaking case and highlights the importance of policies and procedures to effectively reduce costs and improve safety in cases of workplace intoxicants.

## Dismissed for using illegal substance

### **An operative in a manufacturing company, who was dismissed for using an illegal substance, both before he started his shift and during his shift, claimed that he was unfairly dismissed**

A Workplace Relations Commission adjudication officer heard the operative's role involved responsibility for the production of high quality products for the pharmaceutical and food sectors. The role involved a high degree of safety awareness and the demonstration of a history of safety training and participation in safety programmes.

When the operative commenced employment in May 2017, he was provided with the contract of employment and he was given a copy of the employer's disciplinary policies and procedures, which included in the definition of gross misconduct incapability through alcohol or being in possession of, or under the influence of, illegal drugs. In early March 2109, the employee collapsed during his shift. He received immediate first aid attention from employees trained to provide first aid. He was removed to Cork University Hospital. While first aid was being delivered, he admitted to a first aider that he had taken an illegal substance before work. The operative was dismissed on full pay to facilitate an investigation. During the course of the investigation, he admitted he had also taken an illegal substance during his shift.

Later in March he was summarily dismissed, on the basis that he had attended his place of work knowingly under the influence of an illegal substance and further taking an illegal substance while at work, thereby exposing himself and his colleagues to serious health and safety risks in the safety critical environment in which the employer operates.

The operative brought a claim for unfair dismissal, on the basis that a lesser sanction would have been appropriate. He told the adjudication officer that he had made a mistake when he was having domestic problems and following the birth of his son. He said he had an addiction problem, for which he had been trying to get help prior to the incident.

Delivering his finding, the WRC adjudication officer held that the complaint was not well founded. He held that the operative was aware of the employer's position and its stance on safety. He also found that the employer was not made aware of the operative's addiction until after the incident and that the operative was on a final written warning. He found that the employer acted in a fair and sympathetic manner towards the operative.

(WRC adjudication reference: ADJ-0021687)

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