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BRIEF OUTLINE OF SOME IMPORTANT COURT CASES

Lerch v Cableshare (1996), 32 O.R. (3d) 233, 26 C.C.E.L. (2d)142

Mr. Lerch was the president of this publicly traded company. The company's main asset was its patent to a black box which would sit on top of a television set and enable a viewer to do interactive things with the television set. To finance its operations, the company had a non exclusive license with a private Texas company. That Texas company also owned 70% of the shares of Cableshare. Cableshare's board of directors was intimately connected with this Texas company. Lerch came to believe that the Texas company was trying to drive the share price of Cableshare down so it could purchase the remaining 30% of Cableshare shares cheaply. He thus secretly sought out other companies to license the Cableshare black box technology so that not all of Cableshare's eggs were in one basket. He was caught doing so, and was stripped of his signing authority and title as president. He was demoted to the position of VP Finance but he kept his same salary. He sued for constructive dismissal and Cableshare defended the action alleging "cause for dismissal" saying that Lerch's secret actions showed he could not be trusted. The court held that he had been constructively dismissed, even though he kept the same salary. In addition, the court held that Lerch acted appropriately as he owed a fiduciary duty to Cableshare, not to its majority Texas owner. Finally, the court gave him a lengthy notice period of 18 months, which came to about $200,000 in damages.

McHugh v Fitness Canada (1996), 22 C.C.E.L. (2d)34

This case is famous for its proposition that a lay off is usually a dismissal at common law, despite what the Employment Standards Act says.

Chambers v Omni Insurance Brokers (2002), 17 C.C.E.L. (3d)179

This case deals with the concept of "condonation" which holds that mistakes by an employee that are not acted upon by the employer within a reasonable time period can be held to be forgiven.