

COURT OF APPEAL FOR ONTARIO

CITATION: Cavic v. Costco Wholesale Canada Ltd., 2015 ONCA 215

DATE: 20150330

DOCKET: C56219

Sharpe, Pepall and van Rensburg JJ.A.

BETWEEN

Mykki Cavic

Appellant

and

Costco Wholesale Canada Ltd.

Respondent

Mykki Cavic, in person

Michael Horvat and Naomi Shawn, for the respondent

Heard and released orally: March 26, 2015

On appeal from the judgment of Justice Carole J. Brown of the Superior Court of Justice, dated October 1, 2012.

ENDORSEMENT

[1] In her oral argument before us, the appellant offered an explanation for her conduct in submitting a claim for benefits under her employer's health insurance plan in the name of the "phantom beneficiary". The trial judge heard that same explanation and rejected it, favouring the evidence offered by the respondent.

[2] In our view, it was open on this record, for the trial judge to make the finding she did. This was essentially a credibility case and the trial judge gave careful and detailed reasons explaining why she rejected the evidence of the appellant. We see no error that would permit us to reverse those findings. It is for the trial judge to make findings of credibility, not this court. Nor are we persuaded that the trial judge erred in concluding that termination was a proportional response to the appellant's misconduct.

[3] The appeal is dismissed. Costs to the respondent fixed at \$3,500, inclusive of taxes and disbursements.

"Robert J. Sharpe J.A."

"S.E. Pepall J.A."

"K. van Rensburg J.A."