COURT FILE NO.: 06-4045-SR
DATE: 20081007

2008 CanLII 55459 (ON SC)

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:	)	
Mardi Dawson	)	R. Deutschmann, for the Plaintiff
Plaintiff	)	
- and -	)	
FAG Bearings Ltd.	)	J. Skinner, Q.C., for the Defendant
Defendant	)	
	)	**HEARD:** September 10, 11, 12 & 16, 2008

The Honourable Mr. Justice Gerald E. Taylor

Overview

[1] Mardi Dawson was employed by FAG Bearings Ltd., as a machine operator, from October 3, 1991 until September 22, 2005 when her employment was terminated for cause. The cause relied on by FAG was unsatisfactory work performance. Mardi Dawson brings this action claiming that FAG did not have just cause to terminate her employment and therefore seeks damages for the wrongful termination of her employment.

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Facts

[2] FAG is one of the major suppliers of water pump bearings to North American and European automobile manufacturers. FAG also manufactures bearings for other automotive applications as well as bearings for use in the aerospace industry. These bearings require a high degree of precision in manufacturing and accordingly, quality control is an important aspect of FAG's plant operation. FAG prides itself on the high quality of its products.

[3] Dawson was 60 years old at the time of the trial having been born January 15, 1948. Her formal education ended at grade 12. She initially worked in retail sales. She returned to Conestoga College and took a machine shop course. After completing that course she worked for Diemaco for three years until she was laid off. Within a week of that lay off she was hired by FAG and commenced employment on October 3, 1991.

[4] Sometime after commencing her employment with FAG, Dawson was given a copy of an Employee Handbook and was instructed to review it. The Handbook is said to contain the general rules and regulations for FAG employees to understand and follow. From time to time it was updated. Contained in the Employee Handbook is an explanation of FAG's Progressive Discipline Policy.

[5] The Progressive Discipline Policy is applicable to unsatisfactory work performance. The Policy provides for a four step process. An employee is permitted four discipline infractions within any 12 month period. When a discipline infraction is committed, a written Discipline Notice is issued to the employee. If an employee receives a third Discipline Notice within a 12 month period a two-day suspension is issued. If the employee receives a fourth Discipline Notice within the same 12 month period dismissal from employment is the result. The Progressive Discipline Policy also sets out a procedure for issuing Discipline Investigation Notices if the investigation into a potential discipline infraction will take more than two working days. If an investigation takes more than five days, the Policy requires the employee under investigation to be advised in writing if suspension is the possible outcome of the investigation.

Lastly, the Policy specifies that all suspensions or dismissals are subject to review by Management and the Employees' Committee.

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[6] The Employee Handbook also outlines the procedure for employees who wish to move to a new job within the plant. Vacancies are posted and employees can apply for the open position. The Handbook specifies that the employee must be able to demonstrate that he or she is capable of performing the requirements of the new job within 10 working days. If the employee's performance in the new job is not satisfactory he or she will be returned to his or her former job. Interestingly, Alan Beck, FAG's Director of Human Resources, testified that there is no position in the plant for which an employee can be adequately trained in 10 days.

[7] For the first 10 years of her employment, Dawson operated a machine called a Holland grinder. Sometime during or after 2001 she was assigned to the assembly department, a job she did not find satisfying. In 2003 Dawson requested a transfer back to the grinding department. In early May, 2005, a step grinding position became available. A meeting was held with Dawson and several members of management to discuss the possibility of Dawson filling this position. A decision was made that Dawson would move to the step grinding position and would begin a two-week training period on May 9, 2005. According to a memo dated May 4, 2005 an evaluation of the plaintiff's performance was to take place after two weeks in the new job. On May 9, 2005, a further meeting was held between Dawson and Jeff Galloway, who was a leader in the step grinding department, at which time the expectations of the new position were outlined for Dawson.

[8] In the new position Dawson was responsible for operating three grinding machines simultaneously. One of the grinders was a diamond roll grinder which operated in a similar manner to a Holland grinder. The other two grinders in the new position were single point diamond grinders which were different than a Holland grinder. Charlie Ledrew, a senior operator, was assigned to train Dawson in the new position for the first two weeks.

[9] One of the important procedures used to maintain quality is that each part manufactured in the plant has a Control Plan. The Control Plan requires an operator to perform certain

inspections of parts being machined every 15 minutes. This is to ensure that if there is a problem with the precision of the specifications of a part, it will be detected within 15 minutes and steps can be implemented to rectify the cause of the problem.

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[10] Dawson commenced training for the new position on May 9, 2005. On May 25, 2005, Rick Roes, Production Manager, spoke to Dawson on one of his regular tours through the plant. Dawson told him she thought Ledrew was doing a good job training her and that she would like more independence. At about this time, Dawson's training by Ledrew came to an end and the balance of her training was provided by Bob Gushue, a co-worker who operated the same machines as Dawson on another shift. Dawson began working on her own in the new position on June 9, 2005.

[11] On June 13, 2005, Dawson experienced her first quality problem. She machined 314 pieces which were undersized. She was issued a Discipline Notice which was dated June 21, 2005. Dawson acknowledged that she had forgotten to check the master to the clock gauge as required by the Control Plan. This was Dawson's first Discipline Notice in the new position.

[12] Dawson received a second Discipline Notice dated July 28, 2005 regarding unsatisfactory quality. A burr was found on 756 pieces machined between Dawson's shift and Gushue's shift. The conclusion was that they had not been following the Control Plan by visually checking the parts for burrs every 15 minutes. Gushue also received a Discipline Notice, his first.

[13] In August 2005, FAG received a complaint from a customer that one of 4,000 parts delivered did not conform to its specifications. An investigation ensued. In the course of the investigation, 14,344 parts were inspected. Of that number, 825 were found to be under or oversized. It was also determined that these faulty parts were machined on each of Dawson's, Gushue’s and Harold Bauer’s shifts. Bauer was the third operator on the grinders used by Dawson and Gushue. No determination was made as to how many faulty parts were the responsibility of each operator. Accordingly all three operators were issued Discipline Notices. As this was Dawson’s third Discipline Notice, she was suspended for two days. Although this investigation took more than five days to complete, Dawson was not informed in writing that a

suspension was possible pending the outcome of the investigation, as required by the Progressive Discipline Policy. No review of the suspension by Management and the Employees' Committee was held, as required by the Progressive Discipline Policy.

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[14] Dawson returned to work after her suspension on September 15, 2005. On September 19, 2005, a quality problem was again detected with respect to parts machined by her, Gushue and Bauer. A defect known as a "hit mark" was found on 1,355 pieces machined between the three shifts. According to the evidence of Carlos Ramos, a set up operator who participated in the inspection of Dawson's work, he inspected between 250 and 300 pieces machined by Dawson and only 25 showed no hit marks. Of the remaining approximately 1,000 faulty parts, it could not be determined if they were the responsibility of Gushue or Bauer or both of them. As a result of this incident, Dawson was issued her fourth Discipline Notice.

[15] Neither Gushue nor Bauer were issued Discipline Notices, although their faulty production exceeded that of Dawson by three to four times. The explanation for this is that it could not be determined, as between Gushue and Bauer, which of them was responsible for not detecting the hit marks on the remaining pieces. Roes, the Production Manager, acknowledged that this fourth incident was handled differently than the third incident in that Discipline Notices were issued to all three operators when it could not be determined which one or more of them was responsible for the defective pieces in the third incident, whereas when dealing with the fourth incident, neither Gushue nor Bauer were issued a Discipline Notice on the basis that it could not be determined whether one or both of them were responsible for the approximately 1,000 defective parts which had not been produced by Dawson. Had Discipline Notices been issued to Gushue and Bauer, Gushue would have been subject to a suspension for his third Discipline Notice in 12 months and Bauer would be in receipt of his second Discipline Notice.

[16] Dawson completed what turned out to be her last shift at FAG at 7 a.m. on September 21, 2005. Roes, who was in charge of the investigation in relation to the fourth incident, telephoned Dawson at home during the day on September 21, 2005. He verbally advised her about the Discipline Investigation Notice that he had issued. He then granted her a vacation day which meant she was not required to attend for work for her shift commencing at 11 p.m. on September

21, 2005. Although he was not certain, he thought he might have been the one who suggested the vacation day. He testified that sometimes it is better, in circumstances such as Dawson was facing, for the employee to remain at home.

[17] Dawson's fourth Discipline Notice was issued by Roes on September 21, 2005. As a result of receiving her fourth Discipline Notice within a 12 month period, Dawson's employment with FAG was terminated. Notwithstanding that Dawson had been granted a vacation day for September 22, 2005, an attempt was made by FAG management to reach her by telephone to request her to attend at the plant to review her termination. When she did not return a message left for her on her answering machine, a letter dated September 22, 2005 was sent to her terminating her employment. At approximately 4:00 p.m. on September 22, 2005, a doctor's note was delivered to FAG stating that Dawson was unable to return to work due to a medical condition, but by this time the letter terminating her employment had already been sent.

[18] Beck, the Director of Human Resources, testified that a representative of the Employees' Committee is invited to all discipline meetings. If the employee, or the representative of the Employees' Committee, requests a review of a dismissal, one will be held. If the employee does not request the assistance of the representative of the Employees' Committee then the dismissal review involves only the leader and the manager responsible for the employee in question. Beck also testified that the termination of Dawson's employment was reviewed because Roes was involved in the decision to terminate her employment.

[19] Roes prepared the Discipline Investigation Notice, the fourth Discipline Notice and he signed the letter advising Dawson that her employment had been terminated. He testified that he conducted a review by himself before the fourth Discipline Notice was issued. No review was conducted after the Discipline Notice and letter of termination were prepared. Dawson was not given an opportunity to explain to management why hit marks were found on the parts she machined on her shift commencing September 21, 2005. No review of the dismissal by Management and the Employees' Committee was held after the decision was made to terminate Dawson's employment, as required by the Progressive Discipline Policy.

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[20] Dawson testified that she did not feel responsible for the hit marks on the parts she machined on her shift, which began at 11 p.m. on September 21, 2005. She said the defect was caused by improper setup of the grinder, which was not her responsibility. She maintained that she checked all pieces every 15 minutes as required by the Control Plan. She detected hit marks on two parts and stopped her machine. She then reported the problem to a setup operator and to quality control. This evidence was contradicted by Ramos, the setup operator, and Wayne Matzold, who in September 2005 was a quality assurance inspector. Matzold testified that he learned of the hit marks from the operator of a machine further along in the manufacturing process. Ramos testified that Dawson was still operating the machine, which was causing the hit marks, when he and Matzold attended at her work location. Ramos says it was he who turned off the machine. Dawson was not given an opportunity to give her explanation before her employment was terminated.

[21] Dawson testified that she encountered little difficulty in operating the diamond roll grinder but she did have problems with the single diamond point grinders. All Discipline Notices related to product quality coming off one of the diamond point grinders. No evidence was presented that Dawson was given any additional training on the diamond point grinders, after she began experiencing difficulty in producing acceptable quality bearings. Evidence was presented that employees who were experiencing problems with lateness and absenteeism were counselled or coached with a view to determining the cause of the problem and to assist the employee in overcoming the problem. There was no formal coaching or counselling procedure to assist employees dealing with quality issues.

[22] Counsel for FAG agreed that, for the purpose of determining any damages to which Dawson is entitled, it would be appropriate to accept Dawson's evidence that at the time of termination she was earning $19.75 an hour and was working a 40 hour week.

[23] A report of Dr. D. Thompson, Dawson's family physician, was introduced on consent but with the stipulation that its contents could only be considered by me on the issue of mitigation. The report refers to Dawson suffering a major depression for which she was prescribed medication during the period September 2005 to sometime before February 2007. Dr.

Thompson was of the opinion that by March 6, 2006, Dawson was in full remission from her depression.

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[24] After termination, Dawson attended Conestoga College for job-search training. She also went to an organization known as Partners in Employment, who assisted her in completing a Training and Employment Plan. She attended Perth Career Counselling from December 19, 2005 to March 20, 2006 and again from July 17, 2006 to February 12, 2007. During these periods she testified to attending at Perth Career Counselling five days a week from 9:00 a.m. to 3:00 p.m. She looked into attending private business schools to upgrade her skills but was unable to afford the tuition. She took an accounting course at Conestoga College. She applied for employment at four retail stores in Stratford, Ontario. She explained that she did not apply for factory work because she was devastated by the termination of her employment at FAG. In May 2007, she found part time employment working at the Stratford Festival.

Issues

[25] On these facts, the issues to be decided are:

a) was FAG justified in terminating Dawson's employment without notice?

b) if Dawson's employment was wrongfully terminated what is the appropriate notice period?

[26] In determining the first issue, the following sub issues are pertinent:

a) did the Progressive Discipline Policy form part of Dawson's employment contract with FAG?

b) was the Progressive Discipline Policy applied fairly?

c) can the Progressive Discipline Policy be relied on to justify summary dismissal?

d) what, if any, consideration should have been given to Dawson as a long-term employee, before her employment was summarily terminated?

[27] In determining the appropriate period of notice, the issue of mitigation by Dawson needs to be addressed.

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Analysis

Cause for Dismissal

[28] The onus is on FAG to prove just cause for the summary termination of Dawson's employment because summary dismissal is a severe consequence requiring, for its justification, misconduct of a truly serious kind .[1]

Did the Progressive Discipline Policy Form Part of the Employment Contract?

[29] On the evidence, there is no dispute that a verbal offer of employment was made by FAG to Dawson. There is no evidence with respect to the terms contained in that offer. I therefore conclude that the offer contained nothing more than a term requiring Dawson to perform services for FAG in return for remuneration.

[30] There is no dispute that Dawson received the Employee Handbook sometime after her employment commenced. She says she received the Employee Handbook 9 to 12 months after she began her employment. Although FAG has no documentation indicating when Dawson was given a copy of the Employee Handbook, Beck, the Director of Human Resources, testified that the procedure in 1991 was that each new employee was given a copy of the Handbook at the time of their orientation. There is no suggestion that the verbal offer of employment to Dawson contained a term that, if accepted, the employment contract would contain some or all of the terms as set out in the Employee Handbook.

[31] It would have been possible for FAG to incorporate the terms of the Employee Handbook into the employment contract if it had been made clear in the offer of employment that the offer was conditional upon Dawson agreeing to accept some or all of the terms as contained in the Employee Handbook.[2] Furthermore, the introduction to the Handbook, in my view, makes it clear that it is not intended to form part of the employment contract. The final paragraph in the introduction states:

[1] *Stevens v. HSBC James Capel Canada Inc.*, [1998] O. J. No. 1692 (Ont. H. C.) at para. 170
[2] *Francis v. Canadian Imperial Bank of Commerce*, [1994] O. J. No. 2657 (Ont C. A.) at para. 30

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> The handbook contains the general rules and guidelines for employees to understand and follow. Developed over the years in cooperation with our Employees' Committee, the handbook will serve to guide us in our daily activities and will, as time and needs warrant, be reviewed and updated to ensure they remain current.

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[32] The reference to the Handbook containing general rules and guidelines is inconsistent with it being a contractual document. In addition, the indication that it will be revised from time to time means that there would be many different employment contracts applicable to different employees depending on the version of the handbook which existed at the time of the commencement of employment.

[33] Therefore, I am not satisfied that the Progressive Discipline Policy as set out in the Employee Handbook was a term of the employment contract between Dawson and FAG.

Was the Progressive Discipline Policy Applied Fairly?

[34] I am disturbed by the fact that the Progressive Discipline Policy appears to have been administered inconsistently. When unable to determine which of the three operators was responsible for the defective product discovered as a result of the customer complaint in August, 2005, all three were issued Discipline Notices. This was Dawson's third Discipline Notice which accordingly resulted in her receiving a two-day suspension. However, when dealing with the hit marks on the parts, Dawson was the only operator who received a Discipline Notice. This was her fourth Discipline Notice and the termination of her employment followed. The explanation given by Roes and Galloway as to why Gushue and Bauer did not receive Discipline Notices is because it could not be determined as between the two of them who had produced the defective bearings. That was a completely different approach than was taken when dealing with Dawson's third Discipline Notice. Roes agreed that the fourth incident which resulted in Dawson's employment being terminated was dealt with in an inconsistent manner compared to the incident that resulted in her third Discipline Notice. Had Gushue been given a Discipline Notice for the same incident, he would have been subject to an automatic two-day suspension. It is difficult not

to speculate that Gushue and Bauer were not given Discipline Notices for the incident which resulted in Dawson's termination because management was reluctant to issue a two-day suspension to Gushue.

[35] I therefore conclude that FAG failed to apply its Progressive Discipline Policy fairly when relying on that Policy to justify the termination of Dawson's employment for cause.

Can the Progressive Discipline Policy be Relied upon to Justify Summary Dismissal?

[36] I agree with Little J. who, when dealing with the same Progressive Discipline Policy in the case of *Leonhardt v. FAG Bearings Limited*[3], held that the Progressive Discipline Policy cannot simply be used as a tool to discharge an employee without reasonable notice or payment in lieu thereof. At a minimum, if the Progressive Discipline Policy is to be relied on, it must be followed. I have concluded that FAG failed to follow its own policy when deciding to terminate Dawson's employment.

[37] The Progressive Discipline Policy entitled an employee to notice if a suspension was the possible result of an investigation. Dawson was not given notice that a suspension was possible arising out of the Discipline Investigation Notice for the incident in August 2005 which was prompted by the customer complaint. There was no review by Management and the Employees' Committee with respect to this suspension.

[38] Similarly, no review was conducted by Management and the Employees' Committee of the decision to terminate Dawson's employment. Roes testified that he reviewed the decision before issuing the fourth Discipline Notice. Roes was the person in charge of the investigation regarding the problem with the hit marks that resulted in the termination of Dawson's employment. In my opinion, the review contemplated by the Progressive Discipline Policy must be an independent review. It is no review at all for the person in charge of the investigation to say he conducted the review before deciding to issue the Discipline Notice. Furthermore, Beck's explanation as to when a review of a suspension or dismissal is conducted is not consistent with

[3] Ontario Superior Court, unreported, Court File No. 05 – 1304SR (Stratford)

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the Policy. The review is mandated. The Policy does not state that a review will only take place if it is requested by the employee or a representative of the Employees' Committee, as Beck testified.

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What, if Any, Consideration Should be Given to Dawson as a Result of the Length of Her Employment?

[39] Dawson had been employed by FAG for almost 14 years at the time of her dismissal. She had just begun working in a new position. There was no evidence presented of any formal evaluation of her ability to perform in the new position, although Dawson was told there would be an evaluation of her performance when starting the new job. It must have been obvious to FAG management that Dawson was encountering significant difficulty in performing up to expectations in the new position, yet no effort was made to investigate the cause of these problems in order to assist Dawson to achieve an acceptable standard of performance. There was no suggestion that any consideration was given to returning Dawson to her previous position in the assembly department. In my view, an employee with almost 14 years of devoted service is entitled to greater consideration when suddenly encountering performance problems.

[40] When dealing with long service employees, the misconduct must be more serious in order to justify dismissal with cause.[4] In my opinion, accepting as I do, that quality in its products was of utmost importance to FAG, the mistakes made by Dawson over a three-month period did not amount to misconduct sufficient to justify summary dismissal after almost 14 years of employment.

Conclusion regarding Cause for Dismissal

[41] For these reasons, I am not satisfied that FAG has discharged its burden of proving that it was justified in terminating Dawson's employment for cause. Therefore, Dawson's employment was wrongfully terminated and she is entitled to damages for breach of the employment contract.

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[4] *McKinley v. B. C. Tel* , [2001] 2 S. C. R. 161 (S. C. C.) at para. 33

Mitigation

[42] The onus is on FAG to prove that Dawson failed to take adequate steps to mitigate her damages.[5] Put differently, it is up to FAG to lead evidence to show that Dawson did not diligently search for alternate employment. The evidence is that Dawson's major depression was not in full remission until early March 2006. Thereafter she commenced a period of job retraining and job-search training. I accept her evidence, keeping in mind her age and the manner of her dismissal from employment with FAG that she did not think it appropriate for her to seek employment in a factory setting. Although she might have been more diligent in pursuing employment in the retail sector, she did make some efforts to find employment in the industry.

[43] No evidence was presented that other employment was available paying similar wages to what she was being paid at FAG. In all of the circumstances, I am not satisfied that FAG has established that Dawson failed to take adequate steps to secure alternate employment.

Notice Period

[44] Dawson was 57 years of age in September 2005. She had been employed at FAG for almost 14 years. Her skills were limited to that of a machine operator. She had health issues. On the other hand, she did not hold a management position.

[45] The Supreme Court of Canada has recognized that work is one of the most fundamental aspects in a person's life, providing a means of financial support and a contributory role in society. A person's employment is an essential component of his or her sense of identity, self-worth and emotional well-being.[6] The Supreme Court has also stated that for most people, work is one of the defining features of their lives.[7]

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[5] *Michaels v. Red Deer College*, [1996] 2 S. C. R. 324 (S. C. C.)
[6] *Reference Re Public Service Employee Relations Act (Atla.)*, [1987] 1 S. C. R. 313 at para. 91
[7] *Wallace v. United Grain Growers Ltd.*, [1997] 3 S. C. R. 701 at para. 93

[46] In *Wallace*, the Court stated:[8]

> The obligation of good faith and fair dealing is incapable of precise definition. However, at a minimum, I believe that in the course of dismissal employers ought to be candid, reasonable, honest and forthright with their employees and should refrain from engaging in conduct that is unfair or is in bad faith by being, for example, untruthful, misleading or unduly sensitive.

[47] In *Honda Canada Inc. v. Keays*,[9] the Supreme Court of Canada stated:

> Damages resulting from the manner of dismissal must then be available only if they result from the circumstances described in *Wallace*, namely where the employer engages in conduct that during the course of dismissal that is "unfair or is in bad faith by being, for example, untruthful, misleading or unduly sensitive" (para. 98).

The Court also stated:

> In *Wallace*, the Court held employers "to an obligation of good faith and fair dealing in the manner of dismissal" (para. 95) and created the expectation that, in the course of dismissal, employers would be "candid, reasonable, honest and forthright with their employees" (para. 98).

[48] The Court in *Honda* went on to hold: [10]

> Damages attributable to conduct in the manner of dismissal are always to be awarded under the *Hadley* principle. Moreover, in cases where damages are awarded, no extension of the notice period is to be used to determine the proper amount to be paid. The amount is to be fixed according to the same principles and in the same way as in all other cases dealing with moral damages. Thus, if the employee can prove that the manner of dismissal caused mental distress that was in

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[8] supra at para. 98
[9] [2008] S. C. J. No. 40 at para 57
[10] supra at para. 59

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> the contemplation of the parties, those damages will be awarded not through an arbitrary extension of the notice period, but through an award that reflects the actual damages. Examples of conduct in dismissal resulting in compensable damages are attacking the employee's reputation by declarations made at the time of dismissal, misrepresentation regarding the reason for the decision, or dismissal meant to deprive the employee of a pension benefit or other right, permanent status for instance (see also the examples in *Wallace*, at paras. 99-100).

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[49] In my view, FAG acted unfairly in the manner in which it terminated Dawson's employment. As I have indicated previously, FAG applied the Progressive Discipline Policy inconsistently when dealing with Dawson with respect to her third and fourth Discipline Notices and Gushue and Bauer in not issuing them a third and second Discipline Notice respectively with respect to the problem involving the hit marks. FAG failed to follow its own Discipline Policy by failing to conduct any independent and objective review of Dawson's suspension and dismissal. FAG was both unfair and insensitive in failing to investigate the reasons why, after almost 14 years of employment, and only after being transferred into a new position, Dawson suddenly began to experience quality problems. A fair and reasonable employer should be expected to investigate the cause of the problem and to attempt to assist the employee to improve her performance rather than march inexorably and resolutely towards dismissal.

[50] I am of the opinion that it must have been within the contemplation of FAG at the time of entering into the employment contract with Dawson that the failure to treat her fairly, sensitively and in accordance with its own policies, after almost 14 years of employment, would have a devastating effect. This effect is demonstrated by the report of Dr. Thompson which indicates that Dawson was not in a position to begin searching for alternate employment until March 2006, seven months after her employment was terminated.

[51] In all of the circumstances, I am of the view that Dawson was entitled to 10 months notice of the intention to terminate her employment.

[52] Based on Dawson's remuneration as agreed upon, I calculate her damages for lost wages to be 10 months at $3,423.33 per month for a total of $34,233.

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Other Damages

[53] Counsel for Dawson, in argument, invited me to award additional damages based on the loss of pecuniary benefits to which Dawson would have been entitled for the period of notice. However no evidence was presented as to the value of the benefits. Therefore I decline to make any award of damages for loss of benefits.

Disposition

[54] For these reasons, judgment will issue in favour of Dawson for damages of $34,233 plus prejudgment interest calculated pursuant to the Courts of Justice Act.

[55] If counsel are unable to agree on the appropriate disposition as to costs, I will entertain brief written submissions with respect to costs. Counsel for Dawson is to deliver his written submissions to my office at Kitchener no later than October 31, 2008. Counsel for FAG is to deliver his written submissions to my office at Kitchener no later than November 25, 2008. The written submissions excluding a Bill of Costs and Costs Outline are not to exceed three pages in length.

"Gerald E. Taylor"

Gerald E. Taylor

Released: October 7, 2008

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COURT FILE NO.: 06-4045-SR
DATE: 20081007

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:

Mardi Dawson

Plaintiff

- and –

FAG Bearings Ltd

Defendant

REASONS FOR JUDGMENT

The Honourable Mr. Justice Gerald E. Taylor

Released: October 7, 2008

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