

Fulcrum Search Science Inc.

Anti-Nepotism Policies & Practices



Are You Your Brother's (or Daughter's) Keeper?

Many employers hire more than one family member. It is often a delicate situation when one but not all of the family members is subsequently terminated. Will there be an adverse reaction by the remaining family members, and if so, are there any restrictions imposed on the employer by law as to how to deal with the remaining family members?

Here is the factual background to a recent case involving this issue.

In September 1990, after years of therapy, an employee's daughter remembered that her uncle (i.e. her mother's brother) had sexually assaulted her many years earlier. It turns out that the uncle was the father's employer. Upon the therapist's recommendation, the daughter decided to confront her uncle. Accordingly on a Friday night, she drove to her uncle's home with her mother and father. The daughter and her mother went to the front door of the uncle's home, leaving the father in the car. When the uncle opened the door, the mother and daughter heatedly accused him of the sexual assault.

The following Monday, the father showed up to work as usual. The uncle took a work order out of the father's hand and asked to see him in his office. The father called his wife, the owner's sister, and the two of them went to the owner's office. There, the owner/uncle began shouting at the father about his daughter's accusation and told him he was fired.

Prior to the termination there were no complaints about the father's work, therefore, no just cause for termination was alleged. The uncle acknowledged that the decision to terminate was based solely on his assessment of his ability to continue to work with the father given the daughter's accusations.

On these facts, the Ontario Court of Appeal recently decided that the employer improperly terminated the father contrary to the Ontario Human Rights Code; that is, the Employer had violated section 5(1) of the Code because the employee had been discriminated against because of family and marital status. In particular, the court ruled that the employee lost his job based on his presumed inability as a husband and father to be a good employee given his daughter's sexual assault allegations against his employer.

This case highlights the importance of understanding your rights and obligations under the Ontario Human Rights Code.

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