

Newsletter



Robinson Sheppard Shapiro
Avocats • Lawyers

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“Shop elsewhere: it’s cheaper!”

The Quebec Court of Appeal recently shed light on employees’ duty of loyalty to their employer — with an expensive lesson to a retailer’s employee.

A cashier in a grocery store informs a regular customer that he would pay less at a competing “big box” store and that he should take his business there. Shocked by such behaviour, the customer informs the cashier’s employer.

The employer, having first suspended the employee without pay, terminates her after an investigation. A series of circumstances justified this dismissal.

The employee held an enviable position in the fiercely competitive grocery business with a small-town employer that had to cope with ruthless major retailers. She was paid a substantial salary, higher than what the competitor was paying. And it was not the first time that she had discussed the competitor’s lower prices with a third party.

In addition, the employee’s refusal to take part and cooperate in the investigation, her failure to express remorse and the absence of mitigating circumstances, despite her many years’ em-

ployment and blank disciplinary record, convinced the employer that it had made the right decision. Progressive discipline was ruled out in such a clear case of fundamental breach of the employment relationship.

As the Court of Appeal emphasized (*Travailleurs et travailleuses unis de l’alimentation et du commerce, section locale 500 c. Alimentation D.M. St-Georges inc.*, 2017 QCCA 1317, at para 88), the employee’s duty to act faithfully and honestly, expressed in article 2088 of the *Civil Code of Québec*, is implicit in every employment contract. It bars the employee from harming the employer’s legitimate interests. The employee is constantly bound by a duty of honesty to the employer and may not cause prejudice to the business in which she is involved. When the employee fails to abide by this duty, dismissal becomes a potential sanction.



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