

MANAGER FIRED FOR LYING ABOUT SEXUAL RELATIONSHIP WITH SUBORDINATE

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The British Columbia Supreme Court ruled that an employer had just cause to dismiss a manager who lied about having a sexual relationship with a subordinate in *Carroll v. Emco Corp.*, [2006] B.C.J. No. 1230.

Michael Carroll had been employed by Emco Corp., a plumbing and heating supply company for 16 years. At the time of termination, he was the branch manager and had six employees reporting to him. One of these employees was Barbara Randall. Randall and Carroll began an intimate relationship in 2002, when Carroll was Randall's supervisor.

Carroll did not disclose that he was intimately involved with Randall. In fact, he denied it when asked by co-workers and his superiors.

Carroll continued to supervise Randall and awarded her the highest salary raises in the branch in 2003 and 2004. In early 2005, he promoted her to the position of inside sales representative. During this time, Randall was taking excessive time off work and was frequently late, but Carroll did not discipline her.

In February 2005, Carroll broke up with Randall after she disclosed that she had been unfaithful to him. Randall had difficulty accepting Carroll's decision and continued to contact him.

Randall caused disruption in the workplace when Carroll began spending a lot of time with a new female employee. After Carroll was seen having breakfast with this new employee in late May 2005, Randall became openly hostile to Carroll. The atmosphere of tension and hostility affected morale in the workplace.

Carroll contacted a senior manager for advice on dealing with the conflict in the branch, but did not disclose his relationship with Randall, even when asked. Carroll did not admit to the relationship until it was common knowledge among employees and members of management.

Emco dismissed Carroll from his position for breach of trust and conflict of interest, but offered him a non-managerial position at another office. Carroll sued for wrongful dismissal.

The trial judge found that Carroll "deliberately concealed the nature of his relationship with [Randall] from his employer and repeatedly lied to his supervisors." The Court held that Carroll's dishonesty was sufficiently serious to undermine the faith inherent in the employment relationship. Emco could not reasonably be expected to trust Carroll again when he had lied and deliberately withheld important information, even in response to direct questions, over an extended period of time. As a result of Carroll's dishonesty, the Court held that Emco had just cause for Carroll's summary dismissal.

Many employers have policies prohibiting romantic relationships between employees. While this case demonstrates that such policies are sensible, they are often difficult to enforce. It is noteworthy that the discharge was upheld not because Carroll had a sexual relationship with a subordinate, but because he lied about it.

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