

COURT OF APPEAL FOR ONTARIO

CITATION: Teljeur v. Aurora Hotel Group, 2024 ONCA 213

DATE: 20240320

DOCKET: COA-23-CV-0373

Miller, Copeland and Gomery JJ.A.

BETWEEN

John Teljeur

Plaintiff (Respondent)

and

Aurora Hotel Group; 2476563 Ontario Inc. operating as Pinestone
Resort & Conference Centre; and 9407472 Canada Inc.

Defendants (Appellants)

Michael Gayed, for the appellants

Jessica Nolan, for the respondent

Heard and released orally: March 19, 2024

On appeal from the order of Justice Michael K. McKelvey of the Superior Court of
Justice, dated February 23, 2023 with reasons reported at 2023 ONSC 1324.

REASONS FOR DECISION

[1] The respondent was dismissed from his employment without cause. The trial judge awarded him damages for reasonable notice based on a notice period of 7 months. He also awarded compensation for lost benefits, reimbursement of expenses, and moral damages of \$15,000.

[2] The appellants have now repaid the \$16,680 in expenses – an amount that the appellants acknowledged was owing but left unpaid for approximately two years.

[3] The appellants argue that the trial judge erred in not deciding the question of whether the respondent made reasonable efforts to mitigate his loss of employment. We do not agree. The appellants acknowledge that the trial judge’s analysis engaged with the question of whether the appellants have satisfied their burden of establishing that the steps taken by the respondent would have resulted in employment. This analysis clearly proceeds from the trial judge’s determination that the respondent made reasonable efforts to mitigate.

[4] The trial judge awarded lost benefits in the amount of 10% of the severance pay awarded. The appellants argued that the respondent did not establish any loss. We are not persuaded the trial judge made a palpable and overriding error.

[5] The award of moral damages was made on four bases. The appellants argue that two of these bases were not pleaded, and that in any event, the conduct is a far cry from the threshold for awarding moral damages. We do not agree. The facts that the trial judge relied on to award moral damages were in fact pleaded and the trial judge made no error in making the award. The conduct of the appellants was deserving of censure, and we see no reversible error.

[6] The appeal is dismissed, and the respondent is awarded costs of the appeal in the amount of \$5,500 on a partial indemnity basis inclusive of HST and disbursements as agreed between the parties.

“B.W. Miller J.A.”
“J. Copeland J.A.”
“S. Gomery J.A.”