

ABSTRACT

Integrating the Science of Addiction Recovery with Human Rights Law: A Proposed Answer to the Problem of Addicted Employees Who Commit Employment Offences – A Recovery Oriented Duty to Accommodate



From the days of the Keeley League meetings (above circa 1890), medical science has called for society to recognize addiction as a disease and to promote laws that integrated a medical approach to its amelioration. One hundred years later, the law still avoids recovery science. The paper will include an update of the most current neurobiological research on addiction and a description of the public policy interests that support treating addiction as a “disability”, that are now ignored. Within the confines of existing law, the paper will also propose a new paradigm to deal with the addicted employee consisting of three main recommendations: a) the discipline for all “culpable” offences of an addict be exactly the same as that for non-addicts (arguing that to do otherwise is inherently impossible and discriminates against the addict); b) an expanded form of “accommodation plan” be adopted, specifically designed to promote long term recovery from a chronic disease using much broader parameters than currently (as opposed to an acute care model), and c) a new role for unions in coaching employees through recovery. The new form of “accommodation plan” would incorporate the most current science and proven best practices (including perhaps a survey of CIRA members’ experience) and allow the addicted employee to “earn” a moderation of the original discipline over time. The proposal will be attractive to unions and employees because it guarantees a chance to “undo” the discipline and achieve recovery; and attractive to employers as it is simpler to manage and may return to them a more productive employee.

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