

Supreme Court rejects doctrine of 'near cause'

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In oral reasons handed down on January 20, 1998, the Supreme Court of Canada reversed two lower court rulings in the case of *Dowling v. City of Halifax*.

The City had dismissed Dowling, an employee with 25 years of service, alleging that he was guilty of dishonesty and corruption. The trial judge had found that Dowling's conduct provided the City with grounds for discipline, but not for discharge, as the case for corrupt conduct on his part was not proven. Invoking the principle of "moderated damages", he awarded Dowling six months' notice. The Court of Appeal held that moderated damages and near cause were good law in Nova Scotia, and that the award of damages was not inordinately low.

In granting Dowling's appeal, the Supreme Court stated that it did not accept the principle of 'near cause' for dismissal, and sent the matter back to the trial judge for a determination of reasonable notice. (See also ["Court says demotion of problem employee is not constructive dismissal"](#) on our Publications page.)

For more information on this subject, please contact [J.D. Sharp](#) at (613) 563-7660, Extension 233.