Drug Testing Seen as Rights Violation



The Canadian Human Rights Commission says federally-regulated companies and public services that randomly test employees or pre-screen job applicants for drugs or alcohol are violating human rights.

The commission has released a new policy on drugs and alcohol, which, with few exceptions, paves the way for human rights complaints among those who feel they were tested unfairly. It applies to Canadian federal government employees and federally-regulated employees, including those working for airlines, banks, insurance firms and telecommunications companies.

According to the commission, a positive drug test simply confirms an individual's previous exposure to drugs and does not prove anything about the person's current fitness to perform his or her job.

Catherine Barratt, media and external relations spokeswoman for the commission, says there's often a false sense of security about a positive drug test, when drugs could have been consumed several weeks beforehand.

Alcohol testing differs because it shows an employee's current state of sobriety, or lack of it.

"Safety is certainly a major concern, not just to employers, but to the Commission as well," says Acting Chief Commissioner Anne Adams. "We accept that employees in safety-sensitive positions, where their impairment poses a risk to their own safety, to others or to the environment, may be subjected to random alcohol testing by their employers."

If a random breathalyzer test shows a worker in a safety-sensitive position is impaired, he or she cannot be fired. It's up to the federally-regulated company or public service employer to offer to help that person deal with the problem and be reinstated afterwards. The commission has ruled that random alcohol testing of an employee in a non-safety-sensitive position without reasonable cause is not acceptable.

"I would suspect that there are a number of people being summarily dismissed for testing positively for drugs, either as part of a random program or pre-employment testing," says Barratt. "We don't hear from most of them because they are not aware it is against their rights."