



Determining a Bona Fide Occupational Requirement

If you terminate an employee with a disability, you may have to prove their dismissal was not discriminatory and was because they could not meet a bona fide occupational requirement. Here is what you need to show to demonstrate that a work-related task is a bona fide occupational requirement.

1. That you adopted the requirement for a purpose rationally connected to the performance of the job
2. That you adopted the requirement in an honest and good faith belief that it is necessary to the fulfillment of that legitimate work-related purpose
3. That the requirement is reasonably necessary to the accomplishment of that work-related purpose

In all cases, the employer must attempt to accommodate the employee to the point of undue hardship. If your grounds for termination do not fulfill all these requirements, the BC Human Rights Tribunal may find that you have violated human rights laws.

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Here are some examples of bona fide occupational requirements:

Example 1: Individuals employed as truck, taxi or transportation drivers must meet vision standards and have an appropriate driver's licence. This is a specific requirement that every individual performing a specific job must meet because they are essential to the effective and safe performance of the job. No duty to accommodate arises because this does not constitute discrimination.

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Example 2: It is a bona fide occupational requirement to have the ability to lift a certain amount of weight to work as a construction worker. Such a requirement may appear discriminatory against persons with certain disabilities, of a certain age or based on sex. However, if the employer can demonstrate that the standard is integral to carrying out the duties of the position and that any changes to the standard would create undue hardship, then it may be a legally justifiable standard.

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