

# The Case of the Broken Ketchup Bottle

## Mock Employment Law Scenario: Stefan v. The Happy Burger Diner

### Teacher Resource

**Curriculum Links:** Understanding Canadian Law (CLU3E), Grade 11, Workplace Preparation

**Legal Focus:** Employment Law

**Estimated Time:** 1 period

#### Overall Expectations:

- Describe the role of law in the workplace.
- Communicate legal knowledge effectively.

#### Specific Expectations:

- Describe the protections afforded to workers by federal and provincial legislation, including those relating to injury and unemployment, and harassment and discrimination.
- Demonstrate an ability to listen and read critically, find relevant information, and express and support opinions, using proper legal terminology.

#### Description of the Scenario

Joe Stefan is a 17 year-old high school student who just got his first job as a cook in a fast food restaurant. When he was hired, he provided the restaurant with his name, address, phone number and social insurance number on the job application, but he did not fill out any other papers. The manager, Marty, is a very nice guy who tells Joe that the restaurant is a very casual place to work and that the staff is like a family where everyone helps each other out. Marty tells Joe that his main responsibility is to cook and keep the kitchen clean, but he will also be expected to help out with whatever needs to be done to keep the restaurant running smoothly.

After two weeks on the job, Joe is looking forward to getting his first pay cheque. He knows that he worked a total of 16 hours in the pay period and has already calculated how much his pay cheque will be. During the first two weeks, Joe did his job as a cook in the kitchen, but he also helped by clearing and cleaning tables, stocking the kitchen and covering the cash register when the cashier took her break. As far as Joe knows, everything went smoothly except for a little accident when he dropped a glass bottle of ketchup that smashed on the floor. Marty feels a little differently. He thinks that Joe doesn't work very efficiently; it seems that when he asks Joe to do something, it takes him twice as long as it does the other staff at the restaurant. Marty is also concerned that Joe

may have taken some money from the cash register. Last Saturday, the register was short and Marty suspects that Joe may have either pocketed the money or charged a customer incorrectly.

When payday arrives, Joe's pay cheque is smaller than he expected. Attached to the cheque is a statement of earnings, which shows that Joe was paid for 16 hours, with deductions for Income Tax, CPP and EI. It also shows that the employer made the following deductions: Uniform: \$10.50 and Other Deduction: \$12.40.

At the end of his shift, Joe asks Marty about the deductions. Marty tells him that he must pay for his uniform, and the employer's long standing practice is to deduct the cost from the employee's first cheque. Marty went on to explain that two factors contributed to the other deduction: First, the cash register was short last Saturday, and because Joe and the cashier both used the register, Marty decided to deduct half of the missing amount from each of their cheques. Secondly, because Joe dropped a bottle of ketchup, the cost had been deducted from his pay.

Joe got very upset. He didn't think it was fair that he should have to pay for the cash shortage since he only rang in one sale, and he was sure he gave the customer the correct change. He tells Marty that he is sure this is unfair and that he will call the Ministry of Labour to ask whether the deduction is allowed. Marty tells him to go home and calm down and that they will discuss the matter further when Joe comes in to work tomorrow.

When Joe gets into work the next day, Marty hands him a formal letter saying that his employment is being terminated for wilful misconduct because of the broken ketchup bottle.

### ***The Final Judgment***

This is a mock scenario. Students will use the information provided to determine a fair judgment.

### ***Teaching & Learning Strategies***

1. Ask students to read *The Big Question*. Have a class discussion about the work environment, employer and employee responsibilities, and how an employee should expect to be treated at work.
2. Using a teacher- or student-centred reading strategy, read *The Facts of the Case*. Clarify any questions and point out any issues that might be unclear.
3. Discuss *The Issues* and *The Relevant Law* and explain how these laws apply to this particular case. The laws have been re-written in a simplified text to make it easier for students to understand. To view the original text, check the websites listed under *Resources*.
4. Using the *Think/Pair/Share* strategy, ask students to come up with arguments that they feel could be put forth by each of the parties in order to defend their actions. Make a class list and have students copy the arguments into their charts under *Each Person's Perspective*.

5. Ask students to complete the **You Be the Judge** exercise. Have students apply the relevant laws to support their answers.
6. Read **The Final Judgment** and tell students that this is a mock scenario and they must come up with solutions for this case. In groups of three, have one student mediate the dispute while the two others play the roles of Joe and Marty. Compare the different results as a class.

### **Assessment & Evaluation**

- Think/Pair/Share
- Class discussions
- *Each Person's Perspective* chart
- *You Be the Judge* worksheet
- *The Final Judgment* activity
- Mock mediation

### **Resources**

Ontario Justice Education Network  
[www.ojen.ca](http://www.ojen.ca)

Ontario Ministry of Labour – Employment Standards  
[www.labour.gov.on.ca/english/es/](http://www.labour.gov.on.ca/english/es/)  
[www.labour.gov.on.ca/english/es/guide/index.html](http://www.labour.gov.on.ca/english/es/guide/index.html)

# The Case of the Broken Ketchup Bottle

*Mock Employment Law Scenario: Stefan v. The Happy Burger Diner*

## Student Handout

### *The Big Question*

You have been working the night shift in a doughnut shop for two months. Your job is to take the drive-thru orders. One night, it is really busy so you try to help out by doing things that are not normally part of your job. You accidentally drop a coffee pot and it breaks. Your boss blames you for your conduct and fires you. Is this acceptable? Why or why not? What do you think should happen?

---

---

---

### *The Facts of the Scenario*

Joe Stefan is a 17 year-old high school student who just got his first job as a cook in a fast food restaurant. When he was hired, he provided the restaurant with his name, address, phone number and social insurance number on the job application, but he did not fill out any other papers. The manager, Marty, is a very nice guy who tells Joe that the restaurant is a very casual place to work and that the staff is like a family where everyone helps each other out. Marty tells Joe that his main responsibility is to cook and keep the kitchen clean, but he will also be expected to help out with whatever needs to be done to keep the restaurant running smoothly.

After two weeks on the job, Joe is looking forward to getting his first pay cheque. He knows that he worked a total of 16 hours in the pay period and has already calculated how much his pay cheque will be. During the first two weeks, Joe did his job as a cook in the kitchen, but he also helped by clearing and cleaning tables, stocking the kitchen and covering the cash register when the cashier took her break. As far as Joe

knows, everything went smoothly except for a little accident when he dropped a glass bottle of ketchup that smashed on the floor. Marty feels a little differently. He thinks that Joe doesn't work very efficiently; it seems that when he asks Joe to do something, it takes him twice as long as it does the other staff at the restaurant. Marty is also concerned that Joe may have taken some money from the cash register. Last Saturday, the register was short and Marty suspects that Joe may have either pocketed the money or charged a customer incorrectly

When payday arrives, Joe's pay cheque is smaller than he expected. Attached to the cheque is a statement of earnings, which shows that Joe was paid for 16 hours, with deductions for Income Tax, CPP and EI. It also shows that the employer made the following deductions: Uniform: \$10.50 and Other Deduction: \$12.40.

At the end of his shift, Joe asks Marty about the deductions. Marty tells him that he must pay for his uniform, and the employer's long standing practice is to deduct the cost from the employee's first cheque. Marty went on to explain that two factors contributed to the other deduction: First, the cash register was short last Saturday, and because Joe and the cashier both used the register, Marty decided to deduct half of the missing amount from each of their cheques. Secondly, because Joe dropped a bottle of ketchup, the cost had been deducted from his pay.

Joe got very upset. He didn't think it was fair that he should have to pay for the cash shortage since he only rang in one sale, and he was sure he gave the customer the correct change. He tells Marty that he is sure this is unfair and that he will call the Ministry of Labour to ask whether the deduction is allowed. Marty tells him to go home and calm down and that they will discuss the matter further when Joe comes in to work tomorrow.

When Joe gets into work the next day, Marty hands him a formal letter saying that his employment is being terminated for wilful misconduct because of the broken ketchup bottle.

### ***The Issues***

- Did Joe's employer have the right to make those deductions?
- Did Joe's employer have the right to terminate his employment?
- Did the broken ketchup bottle constitute "wilful misconduct" or a reprisal by Joe's employer?

## The Relevant Law

### Part V of the Employment Standards Act – Payment of Wages

#### Deductions from Wages

13. Only 3 kinds of deductions can be made from an employee's wages:

#### Statutory Deductions

1. Examples include income taxes, Employment Insurance (EI) premiums and Canada Pension Plan (CPP) contributions. An employer cannot deduct more than the applicable statute allows.

#### Court Orders

2. A court orders the employer to make a deduction from the employee's wages to be paid to the employer or someone else. (i.e. child support)

#### Written Authorization

3. An employer can deduct money if the employee signs a written statement authorizing it. (i.e. automatically putting money into a savings account)

#### An employer cannot deduct wages:

- to cover a loss due to "faulty work." (i.e. an employee breaks a tool)
- if the employer has a cash shortage or property is lost or stolen when an employee did not have sole access and total control over cash or property that is lost or stolen. A deduction can only be made when the employee was the only one to have access to the cash or property, and has given written authorization for the deduction.

### Part XV of the Employment Standards Act – Termination of Employment

#### No Termination without Notice

54. An employer cannot terminate the employment of an employee who has worked for more than three months without giving written notice.

#### Employer Notice Period

57. The amount of notice is usually based on how long someone has been employed by an employer. No notice is required for an employee who has been employed less than 3 months.

### PART XVIII of the Employment Standards Act - Reprisals

#### Reprisal prohibited

74(1) An employer or person acting on their behalf cannot intimidate, dismiss or punish an employee or threaten to because an employee:

- (i) asks the employer to comply with this Act,
- (ii) asks about his or her rights under this Act...

### Ontario Regulation 288/01 - Employment Standards Act - Termination Of Employment

2(1) A notice of termination doesn't apply to an employee who  
is guilty of wilful misconduct, disobedience or wilful neglect of duty that is not trivial and  
has not been condoned by the employer.

(Note: "wilful" means that an employee intended to do something or behaved recklessly knowing the effects of their behaviour. Conduct that is accidental or involuntary is not considered wilful.)

## Each Person's Perspective

Think about the arguments that each of the parties could make and the laws that they could use to justify their actions in this case. Put your ideas on the chart below and be prepared to share your answers with the class.

EMPLOYEE (JOE)	EMPLOYER (MARTY)

## You Be the Judge

Complete the questions below using the relevant laws for this case. For each question, clearly explain what law applies and how it contributes to the answer you've provided.

1. Do you think the employer was justified in deducting money from Joe's pay cheque for the uniform without mentioning it to him first?

---

---

---

2. Should Joe have to pay for the broken bottle of ketchup? Explain.

---

---

---

3. Do you think that breaking the ketchup bottle constituted "wilful misconduct" on Joe's part? Why or why not?

---

---

---

4. Did Marty have to give Joe written notice of termination? Why or why not?

---

---

---

5. Do you believe that the employer fired Joe because of the broken ketchup bottle, or was it an act of reprisal? Explain.

---

---

---

6. Where do you think Joe could get assistance or information about his rights? Find a website or phone number that he might use.

---

---

---



### The Final Judgment

This is not a real case. It is a made-up scenario that is typical of some of the cases that come before the courts. It will be up to you to use the information you've been given to come up with a fair judgment in this case.

In groups of three, have one student mediate the dispute while the two others play the roles of Joe and Marty.

Once you have determined a judgment in the case, use the space below to outline the judgment that you decided upon in your group. Compare your results with others in the class.

Lined writing area for student responses.

