

CANADA / JUDGMENT

Williamson v. Brandt Tractor Inc.

2026 ONCA 272

COURT

Court of Appeal for Ontario

DECIDED

16 April 2026

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Williamson v. Brandt Tractor Inc. Collection Decisions of the Court of Appeal Date 2026-04-16
Neutral citation 2026 ONCA 272 Docket numbers COA-25-CV-0802 Judges Huscroft, Grant; George, Jonathon C.; Wilson, Darla A. Subject Civil Decision Content COURT OF APPEAL FOR ONTARIO
CITATION: Williamson v. Brandt Tractor Inc., 2026 ONCA 272 DATE: 20260416 DOCKET: COA-25-CV-0802 Huscroft, George and Wilson JJ.A. BETWEEN William Williamson Plaintiff (Respondent) and Brandt Tractor Ltd. Defendant (Appellant) Luis Sarabia, for the appellant David Vaughan and Naomi Flanagan, for the respondent Heard: April 8, 2026 On appeal from the judgment of Justice R. Lee Akazaki of the Superior Court of Justice, dated May 1, 2025, with reasons reported at 2025 ONSC 2571. REASONS FOR DECISION

- [1] The appellant, Brandt Tractor Ltd., appeals from a judgment awarding the respondent, William Williamson, damages for wrongful dismissal. The appellant argues that the trial judge erred in concluding that it did not have just cause to dismiss the respondent and erred in finding that the respondent mitigated properly.
- [2] The appeal is allowed in part for the reasons that follow. The trial judge did not err in concluding that the appellant did not have just cause
- [3] The appellant accepts that the trial judge stated the law properly, but argues that he misapplied the evidentiary threshold required to establish the final incident as a culminating event that established just cause to dismiss the respondent.
- [4] We disagree.
- [5] The trial judge accepted that a complaint had been made about the respondent by a customer. However, in the absence of admissible evidence from the customer as to what had occurred, the appellant failed to establish a culminating incident so as to justify dismissal based on the respondent's work history. The appellant has not established that the trial judge made an extricable legal error or a palpable and overriding error. His decision is entitled to deference. The respondent did not fail to mitigate

- [6] The appellant argues that the respondent failed to mitigate because he admitted that he did not seek a comparable job in sales. We do not agree. The appellant's burden was to establish not only that the respondent failed to pursue comparable employment, but also that such employment was available – that if reasonable steps had been taken, the respondent would have secured a comparable position. The appellant failed to establish that comparable employment was available. The respondent's choice not to seek employment in the sales field did not relieve the appellant of its burden in this regard. The trial judge erred in failing to deduct money earned in mitigation
- [7] The trial judge erred by refusing to deduct money the respondent earned during the notice period because he earned it in a "lower-paying or ranking position". There is no authority for the proposition that earnings that come from an inferior position are not deductible in mitigation. The passage in *Brake v. PJ-M2R Restaurant Inc.*, 2017 ONCA 402, 135 O.R. (3d) 561, at paras. 157-58, cited by the trial judge comes from a concurring opinion and does not state the law in Ontario. The law is as stated by the majority in *Brake* at para. 99: Subject to additional circumstances not relevant in this case, "employment income earned during the notice period is generally to be treated as mitigation of loss".
- [8] Thus, money earned by the respondent in his new job had to be deducted from the 17 months' pay in lieu of notice to which the respondent was entitled. The parties agree that the respondent earned \$32,881.43 from his new job during the notice period. Accordingly, this amount must be deducted from the damages awarded for the notice period.

Disposition

- [9] The appeal is allowed to the limited extent of reducing the damages awarded, as set out in para. 8. The appeal is otherwise dismissed.
- [10] The respondent was largely successful on the appeal and is entitled to costs of \$15,000, all inclusive. "Grant Huscroft J.A." "J. George J.A." "D.A. Wilson J.A."

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