

Employers Can Fire Marijuana Users

Medical and recreational marijuana may be legal in Colorado, but employers in the state can lawfully fire workers who test positive for the drug, even if it was used off duty, according to a Colorado Court of Appeals ruling this month (*Brandon Coats v Dish Network*).

The court found there is no employment protection for medical marijuana users in the state since the drug remains barred by the federal government.

“For an activity to be lawful in Colorado, it must be permitted by, and not contrary to, both state and federal law,” the appeals court stated in its 2-1 conclusion.

This case involves a telephone operator who has been a medical marijuana patient since 2009 after a car crash left him paralyzed. He was fired in 2010 for failing a company drug test; though his employer didn't claim he was ever impaired on the job.

The employee sued to get his job back, but a trial court dismissed his claim in 2011. That judge agreed with the employer that medical marijuana use isn't a “lawful activity” covered by a state law intended to protect cigarette smokers from being fired for legal behavior off the clock. The employee's attorney plans to appeal the court of appeals ruling.

Based on this ruling, employees who use pot in Colorado do so at their own risk with regard to their employment.

What This Means to Counties

An employer has a right to have a drug free workplace which bars the use of marijuana by employees while off-duty.

For more information, contact CTSI at 303-861-0507.