

Disability and the duty to accommodate: loss of seniority and loss of employment clauses are still relevant!

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The Supreme Court of Canada recently handed down a highly anticipated judgment in *McGill University Health Centre (Montreal General Hospital) (the "MUHC") vs. Syndicat des employés de l'Hôpital Général de Montréal* (2007 SCC 4). This case sets out the scope of an employer's obligations with regards to the application of the provisions of a collective agreement regarding loss of seniority and employment in the event of an absence for disability of an employee, with respect to its duty of reasonable accommodation stemming from the protection against discrimination based on a handicap under the *Charter of Human Rights and Freedoms*.

The Supreme Court of Canada unanimously allowed the appeal by the MUHC and quashed the decision rendered by the Quebec Court of Appeal on March 18, 2005.

It will be very interesting to see what scope and interpretation will be given to this Supreme Court judgment by administrative tribunals and the courts in the various situations to which it could apply, including last chance or return to work agreements and non-unionized environment.