

# Fired Dish Worker Wins \$189K Award On Retaliation Claim

By [Danielle Nichole Smith](#)

Law360 (April 15, 2019, 10:25 PM EDT) -- A former technician who claimed [Dish Network](#) violated Florida law by firing him because he filed for workers' compensation has won \$189,343 after persuading an arbitrator that the company's explanation for terminating him didn't hold water.

An arbitrator with the [American Arbitration Association](#) issued a decision Friday awarding Colin Morrison \$52,516 in back pay, \$36,826 in front pay and \$100,000 for emotional distress. Morrison had claimed that Dish Network LLC fired him in retaliation for his workers' compensation claim stemming from a shoulder injury, and asked for \$150,000 for emotional distress.

"Although claimant's attorney argues that claimant's life has been ruined, and that description is hyperbole, nevertheless it was clear from claimant's testimony that he has suffered a great deal of hardship that would never have occurred if he had not been ordered by his supervisor to complete a roof installation when there was no safety gear on site," the arbitrator said.

According to the decision, Morrison had been brought to a customer's home by his supervisor to help a new, inexperienced employee install an international dish. That supervisor instructed both workers to go on the roof to complete the installation but never mentioned the need to wear safety gear until after a phone call with the supervisor's superior, the award said.

The supervisor then told both of the employees to come down, because they weren't wearing safety gear and had them take turns using a harness she found back at the office, according to the award. After the installation, the supervisor informed the workers that they were being placed on administrative leave and that the decision hadn't been hers, the award said.

There was an investigation by the human resources department, and Morrison was fired on

Sept. 5, 2017, according to the award. The new employee had been fired several weeks earlier, the award said.

The arbitrator examined Morrison's claim under the burden-shifting framework established by the [U.S. Supreme Court](#)'s 1973 decision in [McDonnell Douglas Corp. v. Green](#). Morrison successfully made an initial case of retaliation and showed that the legitimate reason Dish Network gave for his firing was pretextual, the arbitrator said.

Dish Network had contended that it fired Morrison because he failed to wear the proper safety equipment while installing the dish on the roof, according to the arbitrator. But Morrison was simply doing what his supervisor had instructed him to do, the arbitrator said.

"In simple terms, as the supervisor, she was in charge, she told them what to do, and they did it," the arbitrator said.

The arbitrator said that she didn't consider the supervisor to be a "credible or reliable witness" about what occurred on the installation date, whereas the two workers were believable. The arbitrator wasn't convinced by the supervisor's assertion that she didn't know anyone was going up on the roof, noting that though it was possible to do the installation from the ladder, the supervisor had no reason to believe that was the new employee's plan nor did she try to find out.

Additionally, the investigation conducted by human resources was "perfunctory," the arbitrator said, pointing out that neither worker gave a written statement or got to review human resource's notes for accuracy. And an HR investigator's assertion that Morrison confirmed he wasn't directed by a manager to access the roof wasn't supported by the department's notes and conflicted with the workers' consistent testimony throughout, the arbitrator said.

The arbitrator said the newer employee's quicker termination further showed that Morrison was treated different because of his workers' compensation claim, the arbitrator said.

"We believe that the award was erroneous and a clear departure from the law based on the undisputed facts that came out at the arbitration," Jennifer A. Schwartz, an attorney for Dish Network told Law360 in a statement Monday. "Mr. Morrison admitted to committing the policy violation for which he was terminated during the proceeding. Dish Network intends to

move to vacate the award."

Counsel for Morrison didn't comment on the arbitrator's ruling on Monday.

Morrison is represented by Chad E. Levy and David Cozad of Levy & Levy PA.

Dish Network is represented by Jennifer A. Schwartz and Christopher T. Perre of [Jackson Lewis LLP](#).

The case is Morrison vs. Dish Network LLC, case number 01-18-0001-3630, before the American Arbitration Association.

--Editing by Nicole Bleier.

*For a reprint of this article, please contact [reprints@law360.com](mailto:reprints@law360.com).*