

on the job

TRACKING DEVELOPMENTS IN EMPLOYMENT LAW

6.16.04

Uniformly Applied Violations of Company Policy Do Not Amount to Wrongful Termination

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In *Ronald Bryant v Detroit Medical Center* (unpublished decision), Plaintiff brought claims of age discrimination and retaliation against Defendant, Detroit Medical Center. Defendant's motion for summary disposition was granted by the trial court. Plaintiff appealed the trial court's ruling.

Plaintiff was a 52 year old man with 25 years of work experience. He took a leave of absence and was discharged from his employment before he returned from his leave. In addition, after he was terminated several younger individuals were hired.

First, Plaintiff argued that his termination amounted to age discrimination. Plaintiff established a *prima facie* case of age discrimination by showing that 1) he is a member of a protected class, 2) who suffered an adverse employment decision, 3) was qualified for the position, and 4) the adverse action occurred under circumstances giving rise to an inference of unlawful discrimination.

However, Defendant presented evidence showing that its written leave of absence policy that Plaintiff violated had been uniformly applied. Plaintiff failed to show that this legitimate non-discriminatory reason for his discharge as presented by Defendant was mere pretext. As to this issue, the Appellate Court upheld the trial

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To prevail in a wrongful termination case, the employee must show that the employer's reason for termination was discriminatory and not legitimate. Employers can protect themselves from wrongful termination cases by uniformly applying company policy, addressing clear violations of company policy, and properly documenting violations of company policy.

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court's ruling that there was no age discrimination.

Second, Plaintiff argued that his discharge from employment was retaliation for filing a workers' compensation claim and past union participation. Either party to an at-will employment contract may terminate the contract at any time and for any reason as long as it does not violate public policy. An employer cannot discharge an employee for exercising a well-established legislative enactment. In order to determine if Plaintiff had a claim for retaliation, the court closely examined what Plaintiff believed was the basis for the retaliation.

In examining this issue, the court looked at the Workers' Disability Compensation Act. This Act both confers the right to employees to file claims and expressly protects employees from being discharged for exercising that right. The court also looked at the right to participate in a union. It found that the right to organize a union is conferred to employees by statute. Thus, discharging an employee for filing of workers' compensation claims and participating in unions violates public policy. Plaintiff did not present any evidence to support that he was discharged for any reason other than a violation of Defendant's written leave of absence policy. Therefore, the Appellate Court upheld the trial court's ruling as to this claim as well.

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