

Discrimination, Harassment and the At-Will Employee

In 2012, Melissa Nelson was fired from her position as a dental hygienist for being “irresistibly attractive.” Her boss, Dr. James Knight, claimed that Nelson was “a big threat to [his] marriage.” Nelson sued Knight claiming wrongful termination based on her gender. The Iowa Supreme Court ruled that Nelson’s termination was “unfair, but legal.” Because of a series of texts and the relationship Knight and Nelson had developed, the court determined that the relationship was a legitimate threat to Knight’s marriage and that he was within his rights to fire her because of it.

If you are like Nelson and most Americans, you are an at-will employee. Being an at-will employee usually means working for a private business without a contract that stipulates terms of employment. In an at-will employment relationship, the employer has the right to terminate an employee at any time for good cause or no cause at all. The employee, in turn, has the right to quit at any time with or without warning.

Exceptions have been created in state and federal law to protect at-will employees from wrongful termination as a matter of public policy. Some of these include:

- Discrimination based on age, sex, race, color, national origin, disability, pregnancy, sexual orientation or gender identity;
- Harassment based on any of the above characteristics;
- Discrimination or harassment based on association with someone of a different race (such as having a spouse, boyfriend or child of another race);
- Retaliation because an employee made a complaint about illegal discrimination or harassment; or,
- Retaliation because an employee does something that he or she is legally obligated or entitled to do, like collecting workers’ compensation benefits after an on-the-job injury, serving on a jury or blowing the whistle on illegal activities.

Discrimination normally means that you have been disciplined, fired, demoted or not hired based on your age, sex, race, color, national origin, disability, pregnancy, sexual orientation or gender identity.

While a wrongful termination case is difficult to prove, it is possible and can entitle an employee to damages. Take Paul Blakeslee for example, an employee of Shaw Environment and Infrastructure. In 2013, a federal jury found in Blakeslee’s favor after he reported that his regional manager was conducting illegal business practices. His manager fired him just days after he sent his report to the company’s CEO, claiming that his position was being eliminated to save money. The company investigated Blakeslee’s claims and fired the regional manager. But Shaw refused to bring Blakeslee back to work, so he sued the company for age discrimination and retaliation. In March 2013, a jury agreed with Blakeslee and awarded him damages, saying he had been fired in part because of his age and in retaliation for his report.

If you believe that you have an employment claim, you may have the right to bring a claim against your employer. Laws vary from state to state, and a good resource for information is the Wyoming Department of Employment and the EEOC.

Nothing in this article should be construed as legal advice. You must consult with an attorney for the application of the law to your specific circumstances.

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