

Listing all Reasons for Discharge Can Help Employers Win Discrimination Cases

July 2013

When communicating the reasons for a discharge, employers sometimes believe less is more. While “at will” employees can be terminated for any reason, or none at all, and are not legally entitled to a reason, it often makes sense to provide the specific rationale for the separation. Not only may it convince the employee that the decision is legitimate and business related, but in the event legal action against the employer is taken, early and consistent communication of the reason adds credibility in the defense of the claim. Moreover, where more than one reason for the decision exists, each reason should be articulated. Doing so provides multiple opportunities to overcome claims of discrimination, and as the Appellate Court of Connecticut recently ruled, only one of the proffered reasons need be legitimate to overcome a discrimination claim. [Callender v. Reflexite Corp.](#)

In that case, plaintiff worked as a team leader of three separate departments, including the rigid manufacturing line. After being injured on the job she received workers’ compensation and was placed on a leave of absence. Because of her injuries she notified the company she was no longer able to perform her particular job. She was, however, able to perform light duty assignments. Shortly thereafter she was terminated.

In terminating her position the company provided several reasons for its decision. These included that the employee’s job was being eliminated as part of the rigid manufacturing line’s discontinuance, the employee was unable to perform any other available positions, and there was no light duty work available.

Plaintiff then filed a § 31-290a workers' compensation retaliation claim against the company. She claimed her termination was a result of her filing a workers' compensation claim.

Like cases involving other forms of discrimination, § 31-290a cases employ the widely known McDonnell Douglas burden shifting analysis to determine liability. In doing so, the plaintiff must establish a prima facie case showing she was engaged in protected activity, the employer was aware of the activity, the employer took adverse action against the plaintiff, and that a causal connection exists between the protected activity and the adverse action. The burden of production then shifts to the employer to articulate a legitimate non-discriminatory reason for its decision. It is then left to the plaintiff to prove some other discriminatory reason more likely motivated the employer's decision, or that the employer's explanation was a lie.

In the instant case, the company conceded plaintiff stated a prima facie case. It then offered its three reasons for terminating the employee. Instead of examining each one in turn, the trial court found that since the first reason, job elimination, was a legitimate non-discriminatory reason, which was not refuted by plaintiff, it alone was enough to overcome plaintiff's claim. More specifically, the Appellate Court stated "we conclude that it suffices that the defendant set forth one legitimate non discriminatory reason and that the court was not required to examine every reason or explanation set forth by the defendant as long as it met its burden of producing one legitimate reason."

This case encourages employers to list each legitimate reason for its termination decision, and not just the best reason. Employers should, however, be able to support each reason offered, especially if the case reaches a jury where overall credibility might be more of an issue than in the summary judgment setting reflected in this case.

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