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Workplace needs policy on violence

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The threat of workplace violence continues to be a concern for employers. Many companies have attempted to address the problem with workplace violence policies.

The 6th U.S. Circuit Court of Appeals in July issued an opinion addressing a company's zero-tolerance policy and pointing out several pitfalls employers should avoid.

The case arose out of a workplace altercation at the Knoxville United Parcel Service location in April 1999. An employee reported a coworker had verbally and physically assaulted him and threatened to physically harm his family. In the initial report, the employee did not mention physical contact. In the second statement given two hours later, the employee alleged specifically that the coworker had physically assaulted him.

There was no question that the company had a zero-tolerance workplace violence policy. The policy specifically stated that verbal threats were part of the workplace violence criteria and would not be tolerated. A violation of the policy would result in disciplinary action, up to and including discharge.

The threatening employee was discharged, but his union filed a grievance claiming that the discharge violated the specific language of the union contract.

Unfortunately, as the grievance proceeded, additional information surfaced which indicated that the complaining employee had falsely stated that the coworker had physically assaulted him. The complaining employee claimed that the supervisor had threatened him with his own job if he didn't say that a physical assault had occurred.

Both the arbitrator and the district court judge upheld the decision to terminate. The 6th Circuit remanded the case for determination as to whether there had been fraud on the part of the employer.

There are several lessons here. First, the courts are going to uphold workplace policies that clearly provide that violence or threats of violence in the workplace will not be tolerated. This is true even in situations where employees have some contractual right to continued employment.

Second, employers need to be very careful not to overstate their case when they are investigating complaints of disciplinary infractions. Under the current social environment, jurors are not going to be very sympathetic to employees who make threats to coworkers. The flip side of the coin is that jurors are not going to be very happy if they

determine a witness has exaggerated the offense or falsified documentation in an investigation.

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