

Insubordination: Nurse's Race Bias Lawsuit Dismissed.

An RN who was employed by a company with a contract to provide health care services to inmates of municipal correctional facilities was terminated after she twice adamantly refused to take her lunch break when she told by another nurse whom the nursing supervisor had told to relieve her.

The other nurse tried to relieve the RN for lunch at 11:30 a.m., but the RN insisted she was going to take her lunch at noon.

The RN was led to an office where she was verbally confronted by her supervisor, then sent home for the rest of the day. After reviewing what happened, the director of nursing terminated the RN.

The RN claimed she was cornered in a small office by her supervisor and another nurse.

The supervisor raised her voice and gestured with her hands as she scolded her.

Even if that was true, there is no indication the supervisor's motivation had anything to do with the RN's race, regardless of the RN's own subjective perception.

UNITED STATES DISTRICT COURT
NEW YORK
June 11, 2014

The US District Court for the Western District of New York dismissed the RN's lawsuit which alleged discrimination and a racially hostile work environment.

The Court saw no racial overtones in what happened that might tend to show that the RN's supervisor's motivation had anything to do with the RN's race.

There was no evidence of a severe and pervasive racially hostile or intimidating atmosphere at the facility. Campbell v. Correctional Medical, 2014 WL 2608334 (W.D.N.Y., June 11, 2014).

Misconduct: Nurse Refused To Help Restrain Patient, Firing Upheld.

An RN who was employed in a behavioral health center was terminated after she refused a direct order from her nurse manager to assist him and other staff in restraining a psychiatric patient who was physically out of control.

The nurse manager ordered the nurse to assist him and three other staff in restraining a psychiatric patient who was screaming, kicking, biting and spitting.

The nurse's refusal put her co-workers and the patient in danger of injury.

The nurse was guilty of willful insubordination which justified her termination for misconduct.

COURT OF APPEALS OF MICHIGAN
June 3, 2014

The Court of Appeals of Michigan ruled the nurse's refusal to assist in restraining the patient fit the legal definition of misconduct which justified her termination for cause.

Misconduct is willful disregard of the standards which the employer has the right to expect from the employee or carelessness or negligence of such seriousness or recurrence as to show willful disregard of the employer's legitimate interests.

The Court said that the employer did not have a system in place necessitating progressive discipline of an employee before termination would be appropriate.

The situation might have been different if such a system were in place. It would have given the nurse certain rights before she could be terminated. However, it was not for the Court to substitute its own judgment as to whether progressive discipline should have been the employer's policy, the Court said. War Memorial Hosp. v. Nodurft, 2014 WL 2527511 (Mich. App., June 3, 2014).

Flu Vaccine: Nurse Who Refused Should Not Have Been Fired.

An RN who was employed as a staff nurse in a community hospital was terminated after she refused to get a flu shot as required by her employer's mandatory flu vaccination policy.

Nurse Did Not Claim

Religious Exemption to Flu Vaccine

The employer's mandatory flu vaccination policy contained an exemption for employees who refused the vaccine for medical or religious reasons.

Employees who refused on medical or religious grounds were required to wear a face mask at all times while on the hospital premises during the flu season.

The RN in question did not claim a medical or religious exemption to her employer's flu vaccination policy. She declined on the basis of "purely secular personal reasons," according to the court record.

Nevertheless, she did agree to wear a face mask during the flu season.

If the hospital was going to retain employees who refused the otherwise mandatory flu vaccination on religious grounds, it was not misconduct for this nurse to refuse for purely personal reasons.

She offered to comply to the same extent as someone else who expressed a religious objection.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
June 5, 2014

The Superior Court of New Jersey, Appellate Division, ruled that under the circumstances this nurse was not guilty of misconduct and her termination was not justified. Valent v. Board of Review, ___ A.3d ___, 2014 WL 2515589 (N.J. App., June 5, 2014).