

Worker's Comp: Retaliation Suit Thrown Out.

A nurse injured her back on the job. She had to miss work for one week. She returned to work and worked another week. At the end of that week her employer, a physician, dismissed her from her position as office nurse because she had a back injury and could not perform the duties of her job.

At the time of her dismissal the nurse intended to file a worker's compensation claim.

The nurse sued for retaliation. The Appellate Court of Connecticut acknowledged that an employee can sue if the employer retaliates against the employee for filing or threatening to file a worker's compensation claim. The courts are highly protective of employees' rights under the worker's compensation statutes.

However, the court threw out the nurse's case because there was no proof her employer knew of her intention to file when he dismissed her, and thus there was no retaliation. Knoblauch v. Marshall, 779 A. 2d 218 (Conn. App., 2001).

Worker's Comp: Retaliation Suit Thrown Out.

A nurse injured her back on the job and began receiving worker's comp medical-expense and time-loss benefits. She went back to work as a staff nurse with medical restrictions imposed by her physician against lifting and prolonged standing.

The hospital could accommodate the nurse's restrictions for a time and allowed repeated medical leaves for treatment and recuperation as she continued to receive worker's comp benefits. During this time her performance evaluations were very positive.

Eventually her medical restrictions progressed to the point of being incompatible with the essential functions of her staff nurse position and she was terminated. She sued for retaliation. The US District Court for the Western District of North Carolina dismissed the lawsuit. There was no solid proof of a cause-and-effect relationship between her worker's comp claims and her termination. Greene v. Dialysis Clinic, Inc., 159 F. Supp. 2d 228 (W.D.N.C., 2001).

Neglect Of A Vulnerable Adult: Court Upholds Charges Filed Against Nursing Home Nurse.

The Court of Appeals of Minnesota upheld charges of neglect of a vulnerable adult filed against a registered nurse employed in the nursing home where a patient went for rehab following hip-replacement surgery.

The resident had a history of hypertension and mild congestive heart failure and was on an anti-seizure med.

The nurse was called to her room when she began having nausea. She reported pain in her right arm. There were spastic movements in her left arm and leg.

The nurse did not take her vital signs. The spastic movements prevented getting the blood pressure cuff on her. He thought she was having an anxiety attack. He moved her into the lobby where she would not be alone.

Nursing home residents have legal rights.

A nursing home resident's medical condition must be monitored competently. Any significant change must be reported to the resident's physician.

When a resident requests her physician be notified, her physician must be notified. That comes under the resident's right to medical self-determination.

COURT OF APPEALS OF MINNESOTA, 2001.

Medical Self-Determination

The nurse called the nursing home staff physician even though the resident requested her own physician be notified. The court said that violated the resident's right to medical self-determination that is set out in many states' nursing home residents' bills of rights and upheld by court decisions.

Change in Health Status

The nurse should have recognized there was a significant change in the resident's health status and sought medical attention for her.

In fact she was having a myocardial infarction secondary to hypotension, stroke and congestive heart failure, revealed on autopsy after she died in the hospital thirty-six hours later. J.R.B. v. Dept. of Human Services, 633 N.W. 2d 33 (Minn. App., 2001).