

Reacting to an Office Affair? Don't Forget the 'Fair' Part

When an office romance is in full bloom, it's a tough secret to keep from the perceptive masses. But how's an employer supposed to respond when an affair causes turmoil in the workplace? This court decision offers a good warning: Don't discipline one partner but not the other ...

Case in Point: Roxanne Ruppel, a front-office clerk for a city office in Missouri, began having a consensual affair with the city's mayor, Jeff Whitteaker. Both were married, but neither made a concerted effort to keep the relationship a secret.

Soon, city aldermen (all males) started to refer to Ruppel as "Whitteaker's secretary." And some were concerned with the "turmoil" the relationship was causing in the workplace, including an incident in which the mayor's wife confronted Ruppel in the office.

One of the aldermen told Mayor Whitteaker he was going to "do him a favor." The alderman disciplined Ruppel for something she had done two months earlier. But, the mayor removed the discipline from her file. Next, the alderman voted to have Ruppel's position reduced to part-time without benefits for "budgetary reasons," even though there had been no budget cuts. Finally, the city just flat out fired her.

Ruppel sued the city for gender discrimination because she was disciplined and terminated while the mayor was not.

What happened next ... and what lessons can be learned?

While a lower court tossed out the case, the appellate court reversed and sent it to trial. It said all Ruppel had to prove was that "a protected characteristic was a contributing factor in the employment decision." ([Ruppel v. Valley Park](#), Mo. Ct. App., 5/18/10).

Important side note: The judge in this ruling made a point to say that employment cases should really get their chances to go before juries because they are "inherently fact-based and often depend upon inferences, not on direct evidence." This mindset is important for companies to recognize because once a discrimination claim is made, judges are more likely to send it to a jury to be resolved. This means more protracted litigation, which is a drain on time and money—and a big business distraction.

3 Lessons Learned ... Without Going to Court

1. Be fair. Squeezing someone out of a job for fake reasons will be quickly recognized by the court as pretext. Don't even try.

2. Act consistent. If you discipline one, you must discipline all who are engaged in the same behavior. Duh!

3. Have policies. If there was a “no-fraternization policy” then disciplining both parties would have been a real reason to take employment action.