

Firing can't masquerade as a one-person rif

Elizabeth Bellaver, a manager at a manufacturing plant, consistently earned excellent job evaluations. But her supervisor noted problems with her interpersonal skills, saying he "was tired of continually mopping up the blood after her interactions with people at the plant."

The company, however, seemed to tolerate the same deficiencies among male managers. The personnel files of two male managers with similar interpersonal problems contained no negative comments.

An HR manager warned Bellaver's boss that the company had a double standard that looked down on assertiveness among women. That HR manager was terminated.

After much internal discussion about firing Bellaver, the company instead merged two divisions and announced that she was being discharged in a one-person reduction in force (rif). Her duties were divided among four other managers.

When she sued for sex discrimination, a district court threw out her case, in part because she couldn't show "similarly situated" employees were treated better. Her predicament: With a one-person rif, no other employees were affected.

On appeal, the 7th Circuit sided with Bellaver and sent the case back to trial. The court said her firing could have been motivated by a sexist double standard. It also said the company mischaracterized the firing as a rif. After all, Bellaver's duties were not eliminated; they were reshuffled. (*Bellaver v. Quanex Corp.*, No. 98-3708, 7th Cir., 2000)

Advice: First, don't think you can avoid liability by slapping a different label on a firing. Hiding behind a rif might seem like the easy way out, but be honest with yourself and your worker about the reason for a termination, even if it's unpleasant.

Second, apply the same standards and tolerate the same qualities in both men and women. Monitor your performance reviews to weed out any hint of bias. In this case, the court noted that supervisors criticized only Bellaver for being hard to get along with, while ignoring the same conduct in male managers.

When is a rif not a rif?

In *Bellaver v. Quanex Corp.*, the appeals court says the company mischaracterized its employee's firing as a reduction in force. So what is a rif?

The court says rifs involve eliminating positions from the work force because they are no longer needed. In contrast, having other workers absorb the departing employee's duties is simply replacing that person, not eliminating the job.