

Worried about firing the only minority? Just follow your own rules

Sometimes, irrational fear of litigation keeps employers from acting in their own best interests. For example, they may think discharging the sole minority employee will mean a lawsuit.

Don't let paralysis by analysis slow you down. Your termination decision will be legitimate—as long as you consistently treat every employee fairly. Follow your own rules and apply them consistently.

Recent case: Christopher, who is black, repaired air conditioners for the Winston-Salem Housing Authority. He was the only black technician. From the beginning, the authority documented Christopher had trouble getting along with co-workers, supervisors and residents.

For example, he often criticized co-workers for doing things wrong and demanded special equipment no one else received. He was fired after getting into a shouting match with a supervisor.

Christopher sued, alleging race discrimination. But all he had to support his case was the fact that he was the only black technician.

That wasn't enough to counter the authority's proof that it had applied the same rules to him and all other workers and would have fired anyone whose performance matched his. His case was dismissed. (*Leak v. Housing Authority of Winston-Salem*, No. 1:13-CV-837, MD NC, 2013)

Final note: Periodically conduct your own informal internal audit to uncover possible discrimination. Gather up disciplinary records and compare punishments for breaking the same rules. If there are differences, prepare to explain them—especially if members of a protected class seem to have been punished differently.