

Document exactly why you fired troublemaker

Do you have an employee who is so disruptive that co-workers repeatedly complain? You may have to fire her. Before you do, carefully document how her behavior negatively affects the workplace and what rules she is breaking.

Recent case: Amy, who is white, worked as a nurse for Presbyterian Medical Center in Philadelphia. After the 2008 election, Amy's father forwarded her an email recounting how one business owner thought President Obama would harm the economy. According to the email, the businessman searched his company's parking lot for Obama bumper stickers—and then fired the employees who owned those cars. The email concluded, "These folks wanted change; I gave it to them."

Amy circulated the email to her co-workers. A black co-worker complained, stating that she felt the email was inappropriate and that Obama was being blamed for the nation's problems because he is black. Amy was fired for breaking a rule against sending offensive email through the hospital's email system.

She sued for race discrimination.

Amy argued that she was really fired because her black co-worker attributed racism to all white people. In other words, by stating she believed that the business owner who wrote the email held racist views, Amy's co-worker was implying that anyone who circulated the email was racist, too. Thus, Amy believed she had been fired because the hospital wrongly believed she was a racist.

The court said that interpretation went too far. Plus, Amy couldn't counter the allegation she broke the email rules by circulating offensive materials. (*DeCarolis v. Presbyterian Medical Center*, No. 12-3647, 3rd Cir., 2014)

Final note: You can never predict exactly what an employee will come up with in a lawsuit. But by always documenting a solid business reason for every important decision, you are ready for most contingencies.