

# Don't just rubber-Stamp manager's termination recommendation

When a supervisor recommends discharging an employee, resist the temptation to simply agree with her assessment. Instead, get to the root of the problem.

*Here's why:* If the employee is being targeted because she took FMLA leave or engaged in some other form of protected activity, blind adherence to the supervisor's recommendation to fire opens up the company to a retaliation claim.

**Recent case:** Diane Billups, who was an HR manager, had a history of depression and anxiety. When her condition worsened, she got her doctor to certify she needed intermittent FMLA leave whenever she had an anxiety attack. Her request for intermittent FMLA leave didn't go over well. Although Billups was allowed to take time off, her supervisor repeatedly told her she didn't "look sick." The supervisor also needed to train Billups' subordinates to do her job while she was off sick. The two had a few heated arguments in the following weeks, and the supervisor began reprimanding Billups for poor performance.

Then the supervisor recommended Billups be fired for insubordination. Higher-ups approved the request. No one investigated the supervisor's claims. When Billups was fired, she sued.

In court, the top managers said they agreed with the supervisor's decision to terminate Billups because the tension between the two was "causing morale problems ... and something had to be done about that."

The court ordered a trial. It concluded that the supervisor may have retaliated against Billups for requesting intermittent FMLA leave, especially considering the timing and management's rubber-stamp discharge process. (*Billups v. Tampa Sports Authority*, No. 8:06-1433-T-23TGW, MD FL, 2007)

**Advice:** Always get both sides of the story, and make an independent decision based on the evidence.