

Late returning from leave? No extension request? Feel free to fire

Employers sometimes worry about terminating an employee who hasn't showed up for work when her approved leave expires. That shouldn't be a problem if you previously made it clear that it's the employee's responsibility to keep you updated with their status and to ask for an extension if necessary.

Make sure your handbook spells it all out.

Recent case: Catherine claims she felt a "pop" in her neck while filling out paperwork at work.

She filed a workers' compensation claim and was off work for five months.

When she originally took the job, she received a handbook that clearly stated employees who don't return from 12 weeks of leave when scheduled will be presumed to have resigned.

The employer sent Catherine a notice informing her that if it didn't hear from her it would cut off her health insurance and assume she resigned.

When she was then terminated, Catherine sued, alleging that since she was out on workers' compensation, her leave wasn't over.

The court threw out her claim. It reasoned that she should have known that 12 weeks was the presumed leave length. Therefore, she had lost her right to reinstatement. The court said she should have known her employer would assume she had quit when she didn't call after 12 weeks. (*Guarnieri v. Guardian Warranty*, No. 1238 MDA 2014, Superior Court of Pennsylvania, 2015)