

Paper trail cuts both ways if it shows unequal discipline

You know you should document problems and violations before disciplining an employee who previously performed well. You create a paper trail showing warnings, counseling and efforts to get the employee back on track.

But if you suddenly start holding one employee's feet to the fire, be sure you do the same for all workers.

If the employee you disciplined can show that others with the same shortcomings got off, that paper trail may come back to haunt you.

Recent case: Richard Hempfling, 55 years old, was no longer performing as well as he had before. His supervisors warned him to keep his store clean, well stocked and well run or he would be demoted. An unfortunate remark by one of those supervisors ("There comes a time where people lose some of their management skills.") got him thinking about possible age discrimination.

Then management wrote him up for cash register shortages—discipline required by company rules—but didn't write up younger employees who also handled the register during the same shifts. Hempfling sued, alleging age discrimination.

The court said the remark and the write-ups were enough evidence to send the case to a jury trial. (*Hempfling v. United Refining Company*, No. 06-334, WD PA, 2008)