

Think twice before firing complainer

If you have a worker who has complained about some form of discrimination, think twice before you terminate her ... unless you have fully investigated the complaint and reasonably concluded it doesn't have merit.

Recent case: Christina, who is in her fifties, worked as a nurse for over 20 years with no problems. Then she got a new supervisor. Christina complained that her boss frequently commented about wanting to drive out older workers and replace them with younger ones. Christina voiced her concerns to HR.

She also complained that her supervisor refused to approve her vacation requests, yelled and generally harassed her—all acts she told HR she believed were designed to force her to quit.

Then Christina helped a patient order some Buffalo wings to be delivered from a fast-food restaurant. Her supervisor found out and met with the doctors in charge of the patient's care to discuss whether Christina had obtained clearance for the wings to be brought in. The supervisor noted that Christina had added a comment to the patient's records showing she had verified a doctor's approval.

The supervisor recommended firing Christina for altering medical records, and the hospital followed through. That's when Christina sued for age discrimination.

The hospital tried to argue that even if it were wrong about the sequence of events surrounding the wing order, it didn't matter as long as it acted in good faith.

But the court said it did in this case. The supervisor had been actively involved in the decision-making and Christina's underlying age discrimination claim had not been resolved before the wing incident and subsequent termination. Christina will have a chance to persuade a jury that her supervisor used the incident as an excuse to get rid of her for complaining about age discrimination and harassment. (*Connerney v. Main Line Hospitals*, No. 15-02730, ED PA, 2016)