

Don't let dumb comments derail discipline

Supervisors sometimes say things they shouldn't. Don't let those minor screw-ups derail discipline that's clearly deserved.

Recent case: John, a supervisor, has type I diabetes, which is a disability. His employer had a strict attendance policy that required supervisors to mark down subordinates who clocked in late by even a few minutes. Persistent tardiness was punished with discharge. However, a bonus program rewarded perfect attendance.

When John's subordinates earned perfect attendance bonuses, management compared their time clock punches with John's records. The audit revealed that some workers consistently arrived up to a half-hour late, yet they were still marked down as on-time.

Despite warnings to record all late arrivals properly, later audits revealed that John was still fudging the records.

Managers and HR discussed firing John for dishonesty. HR agreed termination was proper if the managers could show that other supervisors hadn't committed similar infractions. HR was assured that companywide audits showed John was unique in his consistent failure to enforce the attendance rules. He was fired.

John sued, alleging disability discrimination. He claimed his supervisor had once commented that John shouldn't forget that the supervisor had once helped arrange a leave of absence when he had complications from diabetes. John claimed that amounted to criticism for taking leave.

The court disagreed, saying a stray comment was not enough to show disability discrimination. Plus, it noted that the employer had compared John's record against other supervisors to ensure he was being treated fairly. (*Loser v. Dolgencorp*, MD PA, 2018)