

Review handbook for at-will conflicts

In Texas, employment is generally at-will. That means employers can terminate employees for any reason or no reason at all, as long as the reason isn't otherwise illegal.

But if an employee has a contract with his employer that specifically limits his discharge, then at-will employment does not apply. This situation can get tricky if your employee handbook lacks a contract disclaimer or contains language that seems to limit your right to fire employees.

Recent case: Jessie was over 65 when he was hired as an environmental specialist. He claimed his troubles began almost immediately when a co-worker made it clear that he had wanted the company to hire his younger friend.

What followed, according to Jessie, was a campaign of harassment that eventually ended with him being terminated. He had reported the harassment to HR, but nothing changed.

Jessie sued, alleging among other claims that he had been wrongfully discharged in violation of public policy.

The employer argued Jessie was an at-will employee. But Jessie countered that the employee handbook included disciplinary provisions that protected him from firing for filing an internal complaint.

The court said he might have a case, and said he could file an amended complaint based on the handbook provisions. If the handbook does not include a disclaimer that it is not a contract and also includes specific protection for filing HR complaints, he may have a case. The court will look for a pledge promising no retaliation for reporting harassment or discrimination. (*Rollins v. VSE*, ED TX 2018)

Final note: Have your attorneys review your handbook to make sure you haven't accidentally removed at-will protection. Check to make sure it has a contract disclaimer and that it doesn't promise more than you intended as far as discharge goes.