

Stubble trouble: Can you fire unshaven employees?

Do any of your employees look like they've just crawled out of a suitcase? A court recently addressed this question: If an employee is fired for ignoring his boss's demands to get a shave, does that count as "misconduct" that disqualifies him from unemployment benefits?

Case in Point: Craig Berg, a Harley-Davidson salesman, was warned by his supervisor at least 10 times about his need to look more professional at work. The boss told Berg, "If you want to grow a beard—grow a beard. If you don't, then shave ... I don't want the 'I'm just not going to shave until every third or fourth day' look."

Berg apparently was as unreliable with his iron as he was with his razor, frequently appearing in rumpled clothes.

On one occasion, Berg showed up a half hour late and looking "homeless." His boss sent him home to shower, shave and report back. Berg went home, showered and shaved but he didn't return. He later explained that he "would have been crabby" had he returned that day.

The company fired him for misconduct. Berg applied for unemployment benefits but was denied because his firing was due to misconduct.

Berg appealed the denial. But the appellate court turned him down, saying Berg's constant snubbing of his boss's request to shave did count as misconduct. "The general rule is that if the request of the employer is reasonable and does not impose an unreasonable burden on the employee, a refusal will constitute misconduct," the court said. (*Berg v. Apol's Harley-Davidson, Inc.*, Minn. App. Ct.)

2 lessons learned

- 1. Establish a professional-appearance policy.** If you want your employees to look and dress in a professional manner, then your policy should spell that out. Enforce the policy consistently.
- 2. Recognize religious/ethnic exceptions.** Unless you have safety reasons, employees should be allowed to wear clothing that's part of their religious practice. Having a policy that outright prohibits an employee from doing so may be deemed illegal.

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