

COURT SIDES WITH EMPLOYER IN TERMINATION CASE

A recent employment law decision issued by the Vermont Supreme Court appears to be a big victory for employers, suggesting a possible change of atmosphere with regard to some employment law matters.

In *Adams v. Green Mountain Railroad Co.*, 2004 VT 75 (2004), plaintiff Adams was terminated three days after reporting that her immediate supervisor inappropriately touched her during a heated confrontation between the two. The plaintiff had worked for the Railroad for twelve years and had a history of verbal conflicts with other employees, including supervisors. The lower court awarded the plaintiff damages, ruling that she had proved that the Railroad terminated her because she reported that her supervisor touched her inappropriately.

The Supreme Court reversed the decision stating that the plaintiff failed to prove her employer fired her for reasons other than those stated during trial. The plaintiff based her case principally on timing, as her termination came three days after she reported the incident with her supervisor. The Court ruled with regard to the timing issue:

[W]hen a plaintiff relies on the timing of an adverse employment decision to show improper motive, the record must support an inference that the timing is suspect. There must be some evidence other than chronology that gives the fact finder reason to believe that the timing is an indication of improper motive.

In other words, timing alone is not enough to infer a retaliatory action on the part of an employer. The Court further noted:

Absent an explicit or implied contractual provision limiting the employer's right to discharge, neither the trial court nor the jury is entitled to usurp the role of the employer by determining the weight to be given to the various incidents that preceded plaintiff's termination ...

This decision is consistent with the "at-will" doctrine of employment law that employees can be fired at any time, unless the termination violates public policy, such as a law prohibiting employment discrimination. Additionally, the Court is reminding lower courts that they cannot undermine the business decisions made by individual employers.

- Patrick Williams, Deputy Director, VLCT Group Services

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