

Court Rules Firing Caused Heart Attack

By Jared Shelly

HR leaders are usually prepared for laid-off or fired employees to be angry or sad, but they might want to add medical problems -- such as heart attacks -- to their list of potential problems.

Claire Cole was a secretary for the Department of Public Works in Salem, Mass., when management informed her in March 2000 that her position was being eliminated. She asked to go home and suffered a heart attack just an hour later.

In applying for full disability benefits, Cole claimed that being fired -- along with years of job-related stress -- left her unable to work. In February, after nine years and many appeals, the Massachusetts Supreme Court agreed.

The decision in *Retirement Board of Salem vs. Contributory Retirement Appeal Board* came down to two legal questions: Was the heart attack sustained "as a result of or in performance of her duties?" And, should the city be protected, since officials were just performing a routine HR practice?

The court determined that her heart attack was, in fact, work-related, even though the city argued that Cole had pre-existing conditions -- such as hypertension and chronic anxiety -- and that she was at home -- not at work -- when she was stricken.

The court ruled that she should have been awarded full disability benefits. The case was pursued by Cole's estate after she died in 2006 from a separate illness.

While the specifics of the case may seem rare -- an employee having a heart attack an hour after being fired -- the court documents cited two other instances, once in 1958 and again in 1985.

With more and more layoffs occurring, this case could provide another avenue for litigation, says employment attorney Carolyn Plump.

"I think you're going to have cases where, whenever there is a physical manifestation due to some kind of mental condition, there's arguably a similar case," says Plump, a partner in the labor and employment law practice group of the Philadelphia-based law firm Mitts Milavec.

Could such a physical reaction also stem from a stern lecture by the boss or a negative performance review?

"I don't know what the answer will be," says Plump. "Obviously, in this case, you had a very clear-cut employment action that was taken, but perhaps people will start asking what kinds of job actions -- if any -- will have to occur for somebody to claim they have a physical or personal injury due to their job."

The case puts employers in a "really untenable position," when they are making job-related decisions, Plump says, especially considering the retirement board's claim that Cole had a predisposition to heart problems.

Still, HR should not take medical conditions into account when making those decisions, she says.

Shaffin A. Dato, an employment attorney at New York-based Venable, says he disagrees the heart attack was work-related, since, after all, Cole was home at the time.

In future questions of liability, the timing between an employment action and a physical reaction may be up to the doctors assigned to the case, he says.

The court decision creates "a huge challenge for HR," Dato says.

"Under this statute, it basically says if you give someone some bad news that, at the end of the day results in a physical disability, you're on the hook to pay disability benefits, assuming causation," he says.

May 16, 2009

Copyright 2009© LRP Publications