



CONSEQUENCES OF WRONGFUL TERMINATION

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Abstract

It is occasionally necessary for small business owners or managers to fire an employee. This is an unpleasant fact of life in the business world. Most employers won't terminate a worker without good reason. However, firing an employee can leave your business open to legal action if the reason is considered wrongful. The legal consequences may include court-ordered payment of lost wages, expenses and even punitive damages. In some cases, wrongful termination may also result in statutory penalties such as fines.

Introduction

The actions a person takes in their life are bound to have some kind of effect, either directly or indirectly. Both the action and reaction can be positive or negative, and the effect is not always of the same nature as what caused it. The effects are not always predictable or controllable, which is why a person should be mindful of the things that they do to avoid being faced with some serious consequences. When it comes to an employee's termination, there are a variety of consequences that can present themselves regardless of the legalities of the termination.

This article will look at what consequences may arise as a result of an unlawful employee termination. Areas of discussion will look at what specific consequences that anyone involved in the situation-employer, employee, and the business-may face in the fallout of an unlawful termination, and what impact the specific circumstances of the termination may have on those consequences. The topic of legal litigation, a.k.a. a lawsuit, will be also be discussed as it is one of the most common avenues that the aftermath of a termination, legal or illegal, can take.

Definition

Employees in the United States usually work "at will." This means that employers can fire them for any reason that does not violate specific state or local laws. An illegal firing is considered wrongful termination and opens the door to legal action. Terminating a worker in violation of the terms of an employment contract or a collective bargaining agreement can also be grounds for a legal claim against an employer. In general, federal laws prohibit firing for reasons considered discriminatory or as retaliation for complaints based on real or perceived violations of federal anti-discrimination, labor and health and safety laws. Some states impose additional restrictions on firing of employees.

The Impact of Circumstances on the Consequences

What made an employee termination illegal will likely have an impact on what consequences arise from the situation. Violations of anti-discrimination laws, for example, lead to charges being filed with the Equal Employment Opportunity Commission (EEOC) and, if their investigation determines that a violation did in fact happen, can result in the employer paying compensation to the affected employee in addition to any and all legal fees the situation has



produced.¹ Some of the more serious circumstances can result in some very serious consequences. An employer who intentionally accuses an employee of a theft they did not commit and files criminal charges against them in addition to terminating them may be faced with legal charges for filing a false report. It is far more common and reasonable that what will happen depends on what has happened, simply because of the relationship between the two.

Litigation in the Legal System

Litigation for an unlawful termination is a fairly common result, and it is often the first option that many former employees consider when they first suspect that their firing wasn't completely legal. There are employees who realize that their termination was unlawful before their employers do, largely because employees are educating themselves about the legal rights and protections they have at a faster rate than their employers are. Combine that with economic conditions that cause an increase in terminations and layoffs, and the frequency in wrongful termination lawsuits in the last few years alone is understandable.²

For many, filing a lawsuit against an employer for wrongful termination is the best or only option available depending on their circumstances. The damage that it can do to a person can happen almost immediately. Not only does a termination diminishes any financial security and modern-day necessities that a person has (e.g. benefits like insurance), but the impact it can have on their future employment can be significant as employers are often wary of potential employees who have been fired from previous jobs. Even if a lawsuit doesn't given them back their job, the monetary payout and restoration of their reputation can help ease some of the difficulties that the termination caused.

Consequences For The Employer and Other Management Staff

The bulk of the consequences of an unlawful employee termination is going to fall upon the person who was responsible for doing the firing itself. However this isn't just limited to employers, but supervisors and managers who have superiority and power over other employees in a business. They offer assist in the hiring and firing processes for employees, and their opinions on circumstances for both processes are usually sought because of their direct interaction with the employee.³ Representatives from the Human Resources department are also expected to be involved in terminations, and they often play a key role in the process.⁴ Should a termination been deemed unlawful in anyway, any of these people can be impacted by the consequences simply because of their involvement in the situation. This can be especially so if any one of them is directly responsible for the termination's illegality.

So what are the consequences that these people can face due to their involvement in an unlawful termination? Depending on the degree of their involvement and what happened, they may have to deal with:

Fines and Fees-Violations of laws often result in some kind of legal fine, which the offender is responsible for paying. Employers and management staff who are directly responsible for an unlawful termination will likely be the ones to foot the bill on any of these fines. Organizations like the EEOC who handle legal violations related to the workplace are the ones who decide what fines are due and who is to pay them based on their findings regarding the situation. It's likely that such fines will be several hundreds or thousands of dollars; the EEOC, for example, averages around \$404 million in fines from employers annually.⁵ That doesn't count any other financial costs that an unlawful termination may bring, such as



attorney and court fees for lawsuits, that an employer or other management staffers may be on the hook for.

Damaged Reputation-People are going to think differently of you once they find out that you were involved in on the wrong side in an illegal termination. They may think that you have questionable morals or are just sloppy at what you do, regardless of whether the unlawfulness was intentional or not. The seriousness with which many people view any kind of unlawful behavior with can mean that such a smear on your reputation may be hard to clear up. The association may remain for some time and may resurface should someone look into your background, especially if there was any kind of litigation involved.

Damaged Professional Relationships-In addition to impacting your reputation, unlawful termination can also have an impact on your professional relationships. Other employees that you are responsible for may lose faith in you after learning of a co-worker's unlawful termination. They have expectations of you, just as you may have of them; failing them in one regard may cause them to question your ability to live up to their other expectations. In some cases, they may even be afraid that the same thing will happen to them and will not trust you to be professional or lawful in your decisions. Any peers you have in the business (e.g. if you're a manager or if you co-own the business) might feel the same and may question your actions once they learn about what happened.

Being Fired-Unless you're at the very top of the business' hierarchy, being fired for your role in an unlawful termination may be a possibility. Usually this is when serious errors were made with the termination (e.g. failure to follow procedures or company policy) or if the unlawfulness was intentional. Anyone who directly influenced an unlawful termination are suspect, and an investigation into the situation may result in someone-or several someones-being identified as the responsible party.

Consequences For The Business

The business itself can be impacted by an unlawful termination even though it is sometimes treated as a separate entity for these situations. While the business might not be at fault in any way for what happened, the association with the termination and those involved can be enough for it to end up in the line of fire for the consequences. For some, there may not be any difference between the person responsible for an unlawful termination and the business they work for.

Negative Publicity and Reputation-As mentioned, the employer or management staff's reputation can be negatively impact due to their role in an unlawful termination. In the public eye, these are people who are representatives of the business, its actions, and its policies. The close association means that many will view any major questionable actions by anyone involved with the business as a questionable action taken by the business itself. As some wrongfully terminated employees may openly speak out against their employers, it is very easy for this kind of negative publicity to cause serious harm to a business' reputation.⁶

Separate Fines-Instead of just the person directly responsible for the unlawful termination being required to pay fees, the business may be held responsible for any financial consequences. This may be if there were multiple factors within the business that contributed to the situation, or if there wasn't any specific individual(s) deemed directly responsible. Policies of the business that contributed to an unlawful termination may also result in



separate fines for their role in the termination, with the business as a whole being held responsible for them.

Additional Litigation-Some unlawfully terminated employees may file a lawsuit against the business in addition to or instead of their employer, manager, etc. This may be because they do not know who was directly responsible for their termination, or if there were multiple factors involved that were tied to the business (e.g. policies). How the business as a whole handled the termination and its aftermath may warrant additional litigation outside of the initial wrongful termination lawsuit.

Consequences For The Employee

As an employee who was wrongfully terminated, you are not free from any kind of consequences from the situation. Some results may simply be due to your involvement in the termination, regardless of what it may be. The actions you take in response can also have consequences, even if they are done in good faith and without malice. It is understandable that someone who has been fired, legally or illegally, may have some resentment towards their now former employer and anyone who contributed to the decision. This should not cloud your judgement in deciding how to approach the situation, as it can cause far more problems than you had initially and may impact your chances of having your wrongful termination remedied.

Damaged Reputation-Until the termination is proven unlawful, your reputation will suffer some negative impact from being fired. As mentioned, this can impact your chances of finding a new job depending on what explanation (if any) was given for the termination. New employers expect potential hires to admit if they were ever fired from a previous job because it shows honesty.⁷ However, the reasoning given for the termination may make them wary, especially if you were accused of a serious offense or if you accuse your previous employer of illegally firing you before it's officially proven.

Countersuit-Not every wrongful termination lawsuit that is filed ends up successful, and some employers may file a countersuit against the employee to cover the costs of the initial case. In some cases, this may just be the business or employer's legal fees, which can range anywhere from \$175,000 to \$250,000 on average.⁸ Countersuits can sometimes be filed because the business or employer claims the employee is slandering them with false accusations, although it's a risky move due to its potential to backfire if the original case has yet to be concluded.⁹

Criminal Charges-Unhappy employees from both lawful and unlawful terminations sometimes take out their frustration with their former employers in a very public manner. Criticizing an employer on something like social media isn't unheard of and it usually isn't an issue, but it can lead to serious harm that can cause further problems like charges of slander.¹⁰ In addition to possibly being sued, as mentioned above, you may face the possibility of being charged with slander for any harm done to the employer/business' reputation. Some employees actively try to take revenge on their employer for their termination, with equally disastrous results. Taking any company information that may be of a sensitive nature that can be abused (e.g. access codes or passwords) and then abusing it yourself or giving it to someone to abuse can lead to criminal charges for retaliation or sabotage.¹¹ It may make you feel better in that moment, but that feeling won't last long and



your actions can end up hurting your chances to clear your name in a wrongful termination lawsuit.

The reality is that in many cases, the termination was lawful, and you might never receive a satisfactory answer as to why you were fired. Personalities may differ, working styles may be incompatible, or your skill set might not be as strong as what the employer requires. Focusing on the positive can help you personally and professionally, so use this opportunity to evaluate your strengths and skills and find a position that is a better fit for your abilities, style, and personality. Get started right now by checking out the five things you can do today to find that new job and start moving forward.

Conclusion

Aliens or non-citizens who are working legally in the India may not be fired simply because they are not citizens under the provisions of the federal Immigration Reform and Control Act. Some states have enacted "public policy" prohibitions that make it unlawful to fire someone for reasons viewed as unethical. These laws vary from state to state, so check with your state department of labor for information. Under public policy restrictions, a state might bar employers from firing a worker for refusing to perform an illegal act such as dumping toxic waste or for reporting illegal dumping.

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