

FORMER EMPLOYEE AT L'OREAL FACILITY ALLEGES AGE DISCRIMINATION

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A female employee was fired from her job at a L'Oreal facility in New Jersey. She filed a lawsuit against the cosmetics company, claiming that her termination was a pretext to fire her based on her age. Her case made its way to the U.S. Court of Appeals, Third Circuit. The woman had worked at the Piscataway, NJ facility for nearly 30 years, from October 1980 to March 2009. She spent most of her time at the company as a packaging operator. This position required quality checks on units of production to ensure that the units were in accordance with product specifications. Employees were given negative performance points for any quality-check errors. Any worker who reached 18 negative performance points within a year's time had the potential of being terminated. In November 2008, L'Oreal informed employees that productivity had declined, and the company would consequently be offering a voluntary early retirement package to packaging operators over the age of 55 with at least five years of employment. The plaintiff was eligible for the retirement package but did not accept the offer. Before the company had proposed the retirement package, the plaintiff had accumulated only a few negative performance points and was "well regarded" by her supervisors. Following the offer, however, an inspection error and two separate labeling errors resulted



in the woman exceeding 18 negative performance points. Her employment was subsequently terminated. The plaintiff alleged that the real reason for her firing was her rejection of the retirement package offer and her age. She filed an action in a New Jersey state court, claiming a violation of the New Jersey Law Against Discrimination (LAD). This law, which is similar to the Civil Rights Act, prohibits unlawful discrimination based on, among other things, a person's race, religious beliefs, nationality, or, as alleged in this case, age. L'Oreal removed the case to a federal court. Following a period of discovery – which typically involves the parties gathering and exchanging evidence – the district court granted summary judgment in favor of the company. The plaintiff appealed the decision. The appeals court noted that, with a discrimination claim under the New Jersey LAD, the claimant must first make his/her case, after which point the employer is to present a "legitimate, nondiscriminatory reason" for termination. The burden of proof then moves to the plaintiff. In this case, the district court accepted the company's reason for termination and did not believe that the plaintiff had adequately proven that the reason was pretextual. The plaintiff argued this point, stating that she had provided sufficient evidence to show pretext. The appeals court, however, agreed with the initial decision, believing that the plaintiff's arguments had "[failed] to cast any doubt" on the company's reason for firing and that the retirement package was intended only to reduce the workforce and not rid the company of older employees. As such, the appeals court affirmed the original ruling.