

EMPLOYEE FIRED AFTER INADVERTENTLY SETTING OFF ALARM GOING ON SMOKE BREAK

Cabela's

An employee was fired for initially lying about triggering an alarm. He filed a charge with the EEOC (Equal Employment Opportunity Commission) and later filed a suit claiming racial discrimination and retaliation for the EEOC charge. The man was employed as a receiving associate at Cabela's Wholesale, a retailer of hunting, fishing and outdoor gear. He'd been working at the company for a little less than three months when he inadvertently triggered an emergency alarm opening an employee entrance door for an unauthorized smoke break. When he didn't confess to the blunder, the company investigated, interviewing the man and several other employees. At first, he denied setting off the alarm but – after learning that he may have been caught on a security camera – eventually admitted to the incident. He signed a statement acknowledging that he had opened the alarmed door and apologizing for not immediately speaking up. Human resources decided that the man had violated more than once company policy, and he was subsequently fired. He then filed a racial discrimination charge with the EEOC, alleging that his employment was terminated because he is black. A number of months later, he applied for another position at Cabela's but was not hired. The EEOC issued a Right-to-Sue letter, and the man brought action against the company, claiming that he was fired because of his race and was not rehired in retaliation for filing an EEOC charge, both which would be in direct violation of Title VII of the Civil Rights Act. The company made a motion for summary judgment, asserting that the man had violated polices and that his retaliation claim had to be dismissed because he had not initially filed a new EEOC charge concerning it. The motion was granted. The man's post-judgment motion for an employee



to testify regarding unfair racial treatment, a person whom he “couldn't remember at the deposition,” was denied. On appeal, the judges agreed with the district court's ruling that the man had offered no evidence showing that his termination was pretextual. In other words, he was unable to prove that the nondiscriminatory reason of policy violations was less than legitimate. He further did not dispute that he was aware of said company policies. Likewise, he couldn't support his claim that he was treated differently than employees of other races. Appellate judges stated that his arguments to establish pretext were “conclusory” – unsupported by facts – and “often incomprehensible.” In a similar vein, his appeal that the district court abused its discretion in its decision was unsubstantiated. The appeals court, however, did disagree on the district court's dismissal of the retaliation claim. Said claim was remanded to allow the district court to modify the judgment and specify the claim as dismissed without prejudice. For the remainder of the summary judgment in favor of Cabela's and the denial of the plaintiff's post-judgment motion, the ruling was affirmed.