

## CAN YOU LEGALLY BE FIRED FOR BEING ONE MINUTE LATE?



Michelle Edwards filed a lawsuit against her employer, Advanced Temporaries Inc., claiming that she was fired from her job, even though she was merely an hour late, as she had to care for her mother, who was recuperating from surgery.

This begets the question: Is it legally permitted for the boss to fire you if you are late reporting for work? The answer, which all employees should note, is yes. The fact is you can be fired for coming in even a minute (or a second) late. You can actually be fired for any reason or no reason at all.

However, there are certain laws that can save you from being fired for coming to work late, subject to some conditions. Make sure that one of these five reasons apply to you, or just ensure that punctuality is one of your virtues.

If you are categorized as an “exempt” employee your employer has to pay you for the full day, even if you are late for work. Penalizing you for coming late, the employer risks wrongly classifying you under the ‘*Fair Labor Standards Act*,’ making him liable to reimburse you for all the time docked and the extra hours you put in. If you take them to court they could have to pay, along with your legal costs, double the amount of money they owe.

Some latecomers may be covered under the ‘*Americans With Disabilities Act*.’ Under this act, your employer must give you some leeway and allow you to report late if you have a doctor’s appointment or if the chronic ailment shows signs of resurgence.

Check if you fall under the ‘*Family and Medical Leave Act*.’ This law permits the employee to take continuous or intermittent leave of up to 12 weeks, to deal with a medical emergency that concerns you or a member of your family. Of course, there are issues like applying in advance and paperwork to fill, which workers will do well to take note of.

There is one avenue which very few workers are aware of, and that is ‘*Domestic Violence Leave*.’ If you are suddenly confronted by a medical emergency due to domestic violence, and it requires medical assistance or legal or police intervention, there are many state and local mandated laws and ordinances that say that you cannot be fired. Since this is a law that’s not too common, it would be worth your while to discuss it with a lawyer or your human resource department.

Some states have laws that say that you cannot be fired if you are required to ‘*Testify Under Subpoena*,’ since you may be forced to report late for work or even miss work altogether.

Even if you are legally protected, this does not mean that you can stroll in for work any time you want and the employer can do nothing. You have responsibilities to your employer, and violation of those responsibilities are grounds enough to give you marching orders.

Always give your employer sufficient notice that there is a need for you to be late. Tell him why. If you are too sick to call, ask a family to call. Follow up your oral call with written confirmation through text message, fax or email. Family and Medical Leave and disability discrimination laws may require you to have medical certification, so don’t forget to get a doctor’s note.

The best thing of course, is to be punctual and not late. You are being paid for your work, and the time belongs to your boss. It is not yours to idle away in tardiness. Coming in late by a few minutes may not seem like a big deal to you, but it is infectious and can spread to other workers if you are not made accountable.

The boss has to think of other employees as well. By firing you, he will send a strong message to the other employees. Why give him a reason to do so?