

DID FEDEX FIRE EMPLOYEE FOR WORKERS' COMPENSATION CLAIM?



A woman working at FedEx was injured while on the job and was fired when she returned from medical leave. FedEx claimed that her termination was part of a "national reduction in force" at the company, but the former employee alleged retaliation for exercising her workers' compensation rights. The woman began working in 2006 as an Over, Short & Damaged clerk at a FedEx service center in Illinois. In 2008, she injured her wrist from a fall she incurred at the facility. She reported the injury to the regional manager and was taken to the hospital, where her injury was diagnosed as a "bruise" and her arm was placed in a sling. The facility's manager drove the woman back to the service center and, according to the plaintiff's deposition, told her that she would "be off for a long time." She expressed to the manager her doubt of a lengthy duration. The next morning, the woman told her manager that she would need additional treatment, as her physician had told her the wrist wasn't improving. That afternoon, executives met to discuss downsizing at the Illinois facility, as the company's nationwide plan of reduction demanded the elimination of various positions. The FedEx managing director wanted one full-time position be eliminated at the facility. At the time, there were only three such positions: the plaintiff's and two operations supervisors. The facility manager and regional manager wanted a supervisor onsite to open the service center in the morning and one to close. As they believed that one of the



supervisors could handle the plaintiff's duties, they decided to eliminate her position and retain both supervisors. Meanwhile, the woman's physician determined that her wrist was broken in two or three places and would require surgery. When she returned to work from medical leave, the woman met with the manager and an HR rep and was told that she was being terminated that day. She filed a workers' compensation claim approximately a month later, but had never taken steps prior to that date nor discussed it with any person at FedEx. She subsequently filed a lawsuit in state court, claiming retaliation for exercising rights protected under the Illinois Workers' Compensation Act. The case was removed to federal court, where summary judgment was granted in favor of FedEx. An appeals court reviewed the case. Appellate judges acknowledged that retaliation for utilizing workers' compensation was unlawful, but also made special note that the woman had not filed her claim until after she was terminated. Though a company could fire an employee specifically to avoid the filing of such a claim, both the district and appeals courts believed that, when deciding to terminate the plaintiff, FedEx was unaware as to the extent of her injuries and was anticipating her return within a few days. Likewise, as the plaintiff made no mention of workers' compensation, FedEx would not necessarily have been expecting her to file a claim. Temporal proximity of termination and the injury was not enough to prove a causal connection – and, in turn, prove retaliation. Since FedEx was eliminating positions at multiple locations, the appeals court believed its reasons were legitimate, and the district court's ruling was affirmed.