

ILLINOIS WORKER DISPUTES FIRING OVER PHYSICAL ALTERCATION



Illinois Department
of Transportation

The Illinois Department of Transportation (IDOT) fired one of its employees for disruptive conduct. He challenged the reason for his discharge in state court and a few years later filed a suit in federal court, this time claiming that he was terminated for a prior complaint of racial discrimination. The man had worked for IDOT for around 14 years when the Department was planning on firing him for fighting in the workplace. A “last chance agreement,” however, between a union rep and the IDOT, changed the termination to a 30-day suspension. Two years later, he was in a confrontation between a co-worker and a supervisor at an IDOT worksite. He denied that he had any physical conduct, but the others allege that he pushed the supervisor. The man was given notice of his firing for violating the policy involving violence in the workplace. The man went before the Illinois Civil Service Commission, and an administrative law judge determined that the altercation had taken place but noted that the discharge was “not warranted.” The judge believed the physical conduct was “incidental” from the “posturing” during the confrontation, recommending a 90-day suspension in lieu of termination. The recommendation was affirmed by the Commission. The IDOT took the decision to the Circuit Court of Cook County for review. The man, without legal counsel, noted that he had not signed the last chance agreement and was not given proper notice prior to his discharge. The judge, however, overturned the



Commission’s ruling, finding “sufficient cause” for the termination.

Three years later, the man obtained a Right-to-Sue letter from the EEOC (Equal Employment Opportunity Commission) and filed a lawsuit in federal court. For the first time, he was alleging a violation of Title VII of the Civil Rights Act – claiming that the IDOT had retaliated against him for a complaint of racial discrimination he had filed with the Illinois Department of Human Rights years before. He had not previously cited retaliation in the other hearings. The Department made a motion to dismiss the case, making an assertion of *res judicata* – a case in which a final judgment has already been rendered. In this instance, the IDOT was claiming that the man’s complaint was barred from consideration because of the decision in the Circuit Court – ruling that the reason for the termination was proper, the very aspect that a retaliation claim is calling into question. The district court concurred, stating that the man was trying to “relitigate the validity of his discharge in federal court.” The case was dismissed. On appeal, the man contended that the retaliation claim was dependent upon facts separate from those he noted in state court. The state claim was a matter of the incident with the other two men, whereas the federal claim was a concern of the discrimination complaint. He likewise asserted that he couldn’t claim retaliation previously because he had not yet been terminated. Nevertheless, appellate judges believed that the retaliation claim was predicated on the idea of discrimination as a pretext for his firing – and because he had not previously mentioned it, he was precluded from using it as his argument. The appeals court agreed with the idea of *res judicata* and affirmed the case’s dismissal. Want to see which Administrative jobs are available near you? [Click here](https://blog.granted.com/) to see.