



KOHL'S EMPLOYEE ALLEGES CO-WORKERS' NUMEROUS COMPLAINTS WERE PRETEXT FOR FIRING

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A woman working at the Kohl's Department Store in Hendersonville, TN, claimed that she was fired for filing a charge with the EEOC (Equal Employment Opportunity Commission) against her manager. Kohl's alleged that its reason was a steady influx of complaints from other employees. A lawsuit made its way from a district court to the appellate judges' purview. The woman was hired by Kohl's in 2003 and was transferred to the Loss Prevention Department two years later. In the summer of 2006, her manager gave her a performance evaluation, which noted a lack of efficient communication and the need for improvement with regard to her attitude and temper. The following year, another evaluation listed similar needs for change, including showing no respect for others. Shortly thereafter, the employee filed an EEOC charge, alleging that her manager was subjecting her to discrimination and retaliation – racially tactless remarks and refusing to promote her when she expressed disapproval of his behavior. The EEOC later dismissed the charge. In September 2007, the woman emailed several managers – including her supervisor and the store manager – and complained of the assistant manager not responding promptly when store lights were shut off before closing. The assistant manager sent an email of her own, claiming that the woman was hostile towards her, harassed her and made derogatory comments about overweight people. A couple of months later, two more employees complained – one claiming that the woman made further negative remarks concerning overweight people, the other that the woman had called him at home and called him a racist, and both noting her spiteful attitude. The HR manager directed the woman's supervisor to meet with the woman. The employee admitted to an unfriendly association with one co-worker and jokes of overweight people, but denied the other allegations. She was not reprimanded at that time. Two more months followed – and two new complaints, each claiming intimidating phone calls. Another worker reported that the woman had threatened to “knock [the assistant manager] to the ground.” The manager met with the employee again, but again did not reprimand her. After the meeting, the woman called the HR manager, who claimed that she was aggressive and talked over her. Based on the history of complaints and her evaluations, the HR manager decided to terminate her employment. The resultant suit alleged a violation of Title VII of the Civil Rights Act – retaliation for the EEOC charge. The district court dismissed her claims, not believing that she could show a connection between the EEOC filing and Kohl's decision to fire her. On appeal, the woman claimed that the HR manager only knew of the complaints because her manager – the source of the EEOC charge – had told her. But employees submitted complaints either directly to the HR manager or to someone other than the plaintiff's supervisor. Likewise, not only was there no proof that her manager had any involvement in her termination, but the HR manager had Kohl's Regional Vice President first review and approve the woman's firing. The plaintiff's attempt to designate her replacement as a similarly-situated employee treated more favorably failed – that employee would have had to work under the same HR manager, but she had been transferred to another position and didn't even know the other worker. The district court's ruling was accordingly affirmed.

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