

DISPUTE OVER TERMINATION A MATTER OF WHETHER OR NOT PROPER NOTICE WAS PROVIDED



An employee took leave for a medical condition and was fired shortly thereafter. She claimed a violation of the Family and Medical Leave Act (FMLA), but the company said that the reason for her termination was simple – a lack of paperwork. The woman worked at Spectrum Catering & Concessions in Texas. Near the end of September 2007, there was an incident between the woman and a co-worker. What actually occurred was a source of debate, but the woman alleged that it was an unwelcome sexual advance. She did not return to work after the incident and sought treatment for post-traumatic stress disorder (PTSD). In mid-October, the company president sent the woman a letter, asking why she had been missing work. He requested a written letter regarding the incident, a physician's authorization to return to work and FMLA certification documenting her medical condition. Around a week later, her doctor replied with a letter of his own, stating that he was treating the woman for PTSD and that she was unable to return to work. The company wrote again, informing the woman and her attorney that the doctor's letter had been received. Spectrum also sent a Certification of Health Care Provider – a standard Department of Labor form – to be completed and returned within 15 days for her leave to be covered by the FMLA. Fifteen days passed, and there was no completed document or any response. The company sent another letter to the employee and her counsel, reiterating that the completed certification was necessary for FMLA coverage. Because the documentation had not been turned in, the woman's absences were unexcused. Accordingly, her position was terminated. Legal action ensued. The woman's suit alleged a hostile work environment, employer negligence, violations of the FMLA and retaliation under Title VII of the Civil Rights Act and the FMLA. Spectrum filed a motion for summary judgment, which was granted by the district court. For her appeal, the woman abandoned the hostile work environment and negligence claims and argued against the dismissal of the Title VII and FMLA claims. The woman's PTSD as a "serious health condition" was never disputed. The case was merely a question of whether her notice followed FMLA guidelines. Appellate judges noted that Spectrum had twice requested FMLA certification – its first letter in October and, in response to the doctor's letter, submitting a second request. The FMLA stipulates that an employer can ask for specific information if it believes that a certification is incomplete. In this case, the physician's response did not identify a beginning date or a proposed duration, both of which would be necessary for certification. The woman argued that Spectrum's second letter did not warn her of potential termination, but this was not in violation of the FMLA. An employer only has to advise employees of the consequences of not replying to a certification request when initially making the request – and Spectrum did that in its first letter. The woman's retaliation claims failed because she could not show pretext, that the company's reason for termination was not legitimate. The appeals court affirmed the district court's ruling in favor of the company.