

FEDEX DRIVER ACCUSED OF LYING ABOUT ACCIDENT -- DID A PTERODACTYL REALLY HIT HER TRUCK?



A woman working as a driver for FedEx in Fort Myers, FL, was fired for failing to report an accident. She claimed that the real reason was gender discrimination – an argument which she took to court. The driver had been employed at FedEx for around six years when she was issued a “Performance Reminder” for two accidents deemed “preventable” occurring within a twelve-month period. She was issued a letter which stated that, if she were involved in another such accident, she would receive disciplinary action with the possibility of termination. The incident which led to her firing occurred in November 2004. The woman said that she was driving her assigned route when a bird hit the truck’s passenger window. She described it as a “big bird” – more specifically a “pterodactyl.” She didn’t immediately report it because she believed that reporting accidents was left to the FedEx driver’s discretion. About an hour later, the window caved in, and she parked next to a gated entrance of a subdivision. A landscaper asked her if she had hit the gate, to which she responded negatively. She then drove to another location for better cellular reception and informed a FedEx dispatcher of the accident. The FedEx version of the November incident was a little different. The senior manager at Fort Myers was told by a friend at the police station that a female FedEx driver had struck a gate and fled the scene. The manager called the woman’s supervisor, who allegedly received a call from the driver, stating that the police had asked her about a possible collision at the subdivision’s entrance and calling back later to confirm having hit the gate. The supervisor investigated the scene and spoke to the landscaper, who, in a sworn statement, said that he’d helped the woman clean up the broken glass and had joked about telling management that a bird had hit her truck. FedEx determined that the woman had failed to report the accident, left the scene and lied about the incident. She was subsequently fired. She filed two grievance reports, but the termination was upheld. She then filed a charge with the Lee County Office of Equal Opportunity, followed by a lawsuit alleging violations of the Civil Rights Act and Lee County Ordinance. Both sides made motions for summary judgment, which was granted for FedEx. The district court ruled that the woman hadn’t established her case or shown that similarly-situated employees were treated more favorably. Appellate judges noted that none of the male drivers cited by the plaintiff, who’d been in accidents but had retained their employment, had been accused of lying. The woman likewise argued that her supervisor had a history of gender discrimination, but her evidence supported inappropriate behavior, not discriminatory. Furthermore, it wasn’t proof that the reason for her termination was a pretext for discrimination. On appeal, she had also referred to the potential for a “mixed-motive” theory – that FedEx had both legitimate and discriminatory reasons for firing her. But she had neglected to make this argument in the district court, and it was accordingly dismissed by appellate judges. The summary judgment favoring FedEx was affirmed.