

First Financial Employee Leasing, Inc.

Newsletter

February 2010

Issue 7

How to Legally Handle Chronically Late Workers

Occasional problems with traffic or family issues sometimes cause employees to be late for work. But, chronic tardiness is another thing altogether.

While most employers track tardiness, they should do more. How? By issuing a consistent series of oral and written warnings and documenting each warning, then following up to see whether the behavior improves.

Your documentation will be worth its weight in gold if you fire the employee and they sue for some kind of discrimination. If you can show you previously let the employee know about your concerns and the consequences of their continued tardiness, they would have a hard time winning their case.

Recent Case: Allison was often late. Her bosses warned her repeatedly and kept good notes on each warning. Allison then announced she was pregnant. Soon after - you guessed it - she was tardy again. She was terminated for excessive tardiness. Allison then sued, alleging the real reason was her pregnancy.

The company was loaded with evidence to show that it would have fired her - and any other employee with a similar attendance record - whether she was pregnant or not. It had plenty of documentation to back up its contention that Allison had been warned and counseled about her behavior long before she announced her pregnancy. The court dismissed the case. (*Jeffrey v. Met Logistics*, No. 07-CV-3301, ND IL)

It's okay to set tighter rules on newly hired employees. A new employee was told he couldn't be tardy during his first 30 days. He was fired after arriving late twice. The employee, who was black, sued for race bias saying long-term white employees weren't held to such a high standard. The court didn't buy the comparison, saying he had to compare himself to newly hired white employees to prove bias. (*Lake v. Yellow Transportation*, DC MN)

The lesson: You can learn a lot about employees in their first few weeks. Go ahead and set stricter rules during the initial "introductory" period of 30, 60 or 90 days. If an employee is not working out in the first 90 days - chances are it is not going to get any better!

Letterman Case Spotlights Boss-Employee Relationships

Late-night talk show host David Letterman came under fire last year after admitting - to ward off a blackmail plot - that he'd had sexual relationships with several female staff members.

The incident sent the HR blogs buzzing. While Letterman is unlikely to make any Top 10 Lists of good bosses, does his misbehavior rise to the level of sexual harassment? What's the lesson from all of this?

A key point to remember is that, when it comes to boss/employee relationships, consent doesn't mean it isn't harassment. Any form of "quid pro quo" ("this for that") exchange of sexual favors for job rewards can spark a sexual harassment suit.

If even an implied connection exists between the relationship and an employee's pay, perks and job conditions, the employer could be on the hook for a sexual harassment claim. No Letterman staffers have filed harassment suits - yet.

Advice: The rise in sexual harassment lawsuits is prompting some organizations to place a complete ban on all office romances. That goes too far and, most likely, would be impossible to enforce.

Instead, you'd be wise to adopt an anti-fraternization policy that bans relationships between employees who hold a boss/subordinate relationship. You may even want to extend the dating ban to employees that work in the same department.

Boss/employee relationships are rarely equal and may be bad for morale if co-workers think the lover is being favored in the workplace.

Another option: Don't ban the supervisor/subordinate relationships, but require managers to tell you or other top company officers if they get involved in a "power-differentiated" relationship. You can have that worker report to another manager.

- **Don't wait to address tardiness**
- **Treat all employees equally**

In this issue:

How to Handle Chronically Late Workers |

Boss-Employee Relationships |

You Can Beat Stress 2

Direct Deposits Employers Deadline for Payroll Submission 2

OSHA 300 Log 2



www.ffel.net

3745 Tamiami Trail

Pt. Charlotte, FL 33952

IMPORTANT INFORMATION FOR Employers Offering Direct Deposit

Banks have guidelines they strictly enforce regarding the receipt of payroll information for direct deposit into employee accounts.

Banks will only guarantee a direct deposit for an employee if the direct deposit information has been submitted to the Bank a minimum of 48 hours in advance of the pay date. This is a Bank guideline.

To guarantee that your employees receive their direct deposits on your scheduled pay date, please insure that you report your payroll to FFEL prior to the 48 hour cutoff. Unless FFEL receives the information necessary to process payroll and direct deposits prior to the 48 hour cutoff, we cannot guarantee the Bank will receive the information within their 48 hour timeframe. If that occurs, FFEL cannot guarantee that your employees will receive their pay in their account on your pay date.

OSHA Forms Must be Completed and Posted

An OSHA 300 form is used to record workplace injuries and illnesses for the current calendar year. The OSHA Form 300A is a summary of work related injuries and illnesses that **must be posted in your workplace from February 1 through April 30** following the calendar year covered on the OSHA 300 log. It must be posted in a visible location for employees, such as in a break room or at the time clock. Posting it on a computer or internal company website does not meet the posting requirement.

Although there are some exceptions, for the most part, **if your business employs more than 10 people company-wide at any point during the year, you are required to keep an OSHA 300 log.**

On the OSHA 300 log, you should record any work-related injury or illness that results in:

- Loss of consciousness
- Days away from work
- Restricted work or transfer to another job
- Medical treatment beyond first aid
- Diagnosis by a physician or other licensed health care professional
- Needle stick/cut from sharp object contaminated with another person's blood
- Death
- Chronic irreversible disease
- Punctured eardrum or fractured or cracked bone
- Work related case involving cancer
- Tuberculosis infection
- Hearing loss with significant threshold shift (STS)
- Any case requiring medical removal of an employee

Not every work related incident will be considered recordable, such as injuries resulting in first aid treatment only. Non-recordable first aid treatments are outlined and defined on OSHA's website ([osha.gov](http://www.osha.gov)). Recording an incident does not imply compensability, admission of wrongdoing, or that an OSHA standard has been violated.

If the information pertaining to an injury or illness has changed, update the original OSHA 300 on which it was recorded. Both the OSHA 300 and the OSHA 300A must be kept for five years plus the current year (six years total).

Go to <http://www.ffel.net/FFELfiles/ClientForms.aspx> under Risk Management to get your copy of the OSHA Form 300 and view the OSHA Record-keeping presentation. For additional questions or assistance in completing the form, contact Tom Hughes in the Risk Management Department at FFEL.

Relax, You Can Beat That Stress

You can't turnaround without hearing depressing news - the economy, the housing market, jobs, health care, the war on terrorism- you name it! it is difficult not to clench your teeth or feel out of control.

There's one kind of stress where you're just too busy, but you have a plan to get through it. There's the other stress where you feel you're in a hole and can't get out. That's the type of stress that can be detrimental to your health.

Dealing with a temporary bout of tension is much different than suffering from severe or long-term problems such as anxiety disorders, substance abuse or depression when the help of a doctor is required.

For many people though, all that's needed are strategies to recharge your batteries. Here are a few stress-busting strategies:

1. Simplify your lifestyle and set realistic expectations - Setting small, incremental goals can raise your chances of success, reinforces your ego, your sense of pride and enables you to set more challenging goals for the future.
2. Get moving! - Starting an exercise program can be as simple as a daily walk with a friend and the social aspect holds you accountable. Exercising helps your body learn how to accommodate stress by preparing physically to deal with fatigue. Working out doesn't have to drain your budget either. The important thing in developing your program is that you enjoy it and that you do it consistently.
3. Record your thoughts - Journals, diaries or blogs can be very relaxing for individuals. They can be used to track your goals and your exercise program. Recording your progress can help in achieving your goals.
4. Get a massage - Reward yourself after achieving a goal. Some massage-therapy schools offer lower-cost massages by students. According to a recent survey from the American Massage Therapy Association, the use of massage therapy has remained steady over the past 2 years despite the economy.
5. Tap your employer's EAP Program - First Financial has an Employee Assistance Program (EAP) that is available to all employees and their immediate family members. Use of the EAP is confidential and can help individuals personalize a plan to overcome stress. Employers should encourage employees to address physical symptoms related to stress with their personal physician. The EAP is available to assist if those physical symptoms involve substance abuse. The program can also be utilized by employees as an objective resource in their life. EAP counselors can recommend relaxation techniques, meditation or identify ways to work exercise, social activities or both into what seems like an already overcrowded schedule. The EAP can also be used by immediate family members who are dealing with pressures brought on by the current stressful environment.