

Employees' Delay in Complaining of Harassment lead to Dismissal of Claims

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Five mid-level supervisors brought suit for racial and sexual harassment against their employer based upon purported physical and verbal misconduct by a higher-level supervisor. It turned out, however, that the employees had delayed almost eight months before reporting the misconduct, despite the fact that the employer had a “zero tolerance” policy regarding this type of misconduct, had policies in place which set forth the complaint process. The employer only learned of the supervisor’s alleged misconduct after the employees filed EEOC charges, and at that time, the employer undertook a prompt investigation. The employees claimed that they didn’t complain earlier because their complaints would have been ignored and/or because they feared retaliation.

The employer filed a motion seeking summary judgment and prevailed. The employees appealed. The Eighth Circuit Court of Appeals, like the court below it, found that the employer had sufficient policies in place to prevent and correct harassment, and that the employees unreasonably failed to take advantage of those policies. The employees could not proceed with their claims as a result.

This case demonstrates the importance of having good policies in place concerning harassment and discrimination, and taking prompt action once complaints are lodged.

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