

Employers bear Burden of Proving a Legitimate Business Reason Existed for Denying Employee Reinstatement Following FMLA Leave

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A city employee took Family and Medical Leave Act (FMLA) leave as a result of suffering from multiple chemical sensitivity. When the employee was medically cleared to return to work, the employer refused to reinstate her because it could not guarantee that the workplace was safe in light of the employee's chemical sensitivity. A few months later, the employee was terminated. The employee sued, alleging that the employer violated the FMLA when it failed to reinstate her following her FMLA leave. Under the FMLA, an employee has a "limited right to reinstatement." Specifically, the regulations implementing the FMLA provide that "if an employee is unable to perform an essential function of the position because of a physical or mental condition . . . the employee has no right to restoration. . . ." The trial court held that in order to prevail, the employee had to prove that she was denied reinstatement without reasonable cause. The U.S. Court of Appeals for the Ninth Circuit rejected that holding and found that under the FMLA, the burden is on the employer to prove that it had a legitimate reason for failing to reinstate the employee. Employers should always be able to articulate a legitimate business reason for denying reinstatement to employees who take FMLA leave. By ensuring that such a reason exists, employers will be able to defend against any subsequently filed lawsuit.

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