

Tenth Circuit upholds age discrimination finding by jury

A recent decision by the Tenth U.S. Circuit Court of Appeals, which covers Colorado, determined that an employee produced enough evidence for the jury to disbelieve the employer's reasons for firing the employee.

The Case

Richard Miller, age 54, was hired as the general manager of a company that managed assisted-living facilities. He claimed that his superiors made several comments about his age once they discovered that he was older than he appeared.

After working at the company for over two years, Miller was fired. He was told that he was being fired because of an overall reduction in force and one of his superiors would assume his responsibilities. The next day the company hired a new general manager that was 24 years younger than Miller.

Miller sought administrative review through the Equal Employment Opportunity Commission (EEOC) and the company responded with a letter indicating that Miller's performance was a factor in the decision to fire him. However, the company said performance was not a factor in its decision once Miller filed a lawsuit alleging age discrimination under the Age Discrimination in Employment Act (ADEA).

The jury returned a verdict for Miller and the company appealed to the Tenth Circuit. The appeal centered on whether Miller had shown that the reason for his termination was pretext for discrimination.

The court stated, "Pretext exists when an employer does not honestly represent its reasons for terminating an employee."

An employee establishes a prima facie case for age discrimination once the employee shows he was:

- within the age group protected by the ADEA when fired
- performing his job satisfactorily
- discharged
- replaced by a younger person

After these four points are proven, discrimination is presumed unless the employer can offer one or more legitimate reasons for firing the employee. If the jury decides that one of those reasons is false, it can determine the employer is not credible and that the other explanations must be false as well.

What This Case Means to Counties

If an explanation for firing an employee is not legally and factually solid, do not introduce it. When a discrimination claim is first made, discover the real reasons for the firing and stick to the true explanations. Once a jury finds one explanation to be false, all other explanations can be disregarded as false.

For more information, contact CTSI at 303-861-0507.