

Court Says FMLA Trumps More Restrictive Internal Policies

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Employers must make sure that their internal leave policies do not conflict with the provisions of the Family Medical Leave Act (FMLA). When there is a conflict, the FMLA will control and the employee only has to comply with the Act in order to invoke its protection.

In a recent Sixth Circuit Court decision, the Court found that an employee entitled to leave under the FMLA cannot be denied benefits merely because the employee failed to comply with the employer's internal procedural requirements that were more restrictive than those required by the FMLA.

In *Cavin v Honda of America Mfg, Inc.*, Cavin claimed that Honda interfered with his rights under the FMLA when he was terminated for violating Honda's leave policy. Pursuant to that policy, employees were allowed to call security to report a vacation day, "a one-day absence," or "a one-day sickness," but an absence in excess of one day had to be reported to the Administrative Leave Coordinator within three work days of the first day missed.

Cavin notified Honda security that he needed time off from work due to injuries he sustained from a motorcycle accident. He also contacted Honda daily while off, informing the company of his medical status. Upon returning to work two weeks later with a doctor's excuse, Honda disallowed a portion of Cavin's leave under the FMLA and disciplined him for not following Honda's leave policy because Cavin notified security, but not the Administrative Leave Coordinator. Due to continued complications from his injuries, Cavin missed additional days. Cavin's doctor did not timely submit the proper forms to Honda and Cavin was disciplined a second time, which resulted in his termination.

The Sixth Circuit Court reasoned that Congress, in enacting the FMLA, sought to remedy the inadequate job security for employees who suffered serious health conditions preventing them from working temporarily. Congress sought to implement a "minimum labor standard for leave" that employers could not limit. One of the central focuses of Congress in enacting the FMLA was that provisions apply even when the entitlements created by the Act are in excess of those that an employer would be willing or able to provide. Therefore, the Sixth Circuit concluded that employers could not deny FMLA leave on grounds that an employee failed to comply with internal procedures, as long as "the employee gives timely verbal or other notice." In *Cavin*, the Court concluded that Cavin's notice to security should have been deemed notice to Honda.

What Should Employers Do?

If you have an FMLA policy in place, you should review the policy to determine if it is more restrictive than the requirements of the FMLA. Employers should require an employee to report absences to one particular department or to a human resources department, regardless of the type of absence, in order to let those trained in FMLA procedures determine whether the absence should be considered under the FMLA. Additionally, employers should train all supervisors to recognize potential FMLA requests and instruct them to direct the information regarding such requests to the proper department.

For more information on this alert or your labor relations policies in general, please contact Megan Norris at (313) 496-7594.