



Iowa General Assembly

2012 Legal Updates

Legislative Services Agency – Legal Services Division

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GENDER DISCRIMINATION IN EMPLOYMENT

Filed by the Iowa Supreme Court
December 21, 2012

Nelson v. Knight, __N.W.2d__ (Iowa 2012)

No. 11–182

http://www.iowacourts.gov/Supreme_Court/Recent_Opinions/20121221/11-1857.pdf

Background

The plaintiff, Ms. Melissa Nelson, worked for the defendant, Dr. James Knight, for over 10 years as a dental assistant in his dental office. During the last year and a half of that period, Dr. Knight began to complain that Ms. Nelson's clothing was too revealing and made other remarks to her which were sexual in nature. Ms. Nelson and Dr. Knight also began texting each other outside of work. Some of Dr. Knight's texts to Ms. Nelson were also sexual in nature. Dr. Knight's wife became aware of the texting and demanded that he terminate Ms. Nelson's employment because she felt Ms. Nelson's behavior was a threat to their marriage. The Knights consulted their pastor, who agreed with Mrs. Knight's position. Dr. Knight then terminated Ms. Nelson's employment, telling her that their relationship had become a detriment to his family and that the termination was in their mutual best interests. Dr. Knight later told Ms. Nelson's husband that she had not done anything wrong or inappropriate and that she was the best dental assistant he ever had. Dr. Knight explained that he was concerned he was growing too attached to her and might try to have an affair with her, although nothing had occurred as of yet. Ms. Nelson filed a complaint with the Iowa Civil Rights Commission and then filed suit against Dr. Knight alleging gender discrimination in the termination of her employment. She did not allege sexual harassment. Dr. Knight filed a motion for summary judgment which the district court granted, stating, "Ms. Nelson was fired not because of her gender but because she was [a] threat to the marriage of Dr. Knight." Ms. Nelson appealed.

Issue

Whether an employer who terminates the employment of an employee because the employer views the employee as an irresistible attraction commits unlawful gender discrimination under the Iowa Civil Rights Act.

Arguments and Holding

The Court's unanimous decision affirmed the district court's ruling that Dr. Knight was entitled to summary judgment. The Court found that Ms. Nelson's employment was terminated not because of her gender, but because of Mrs. Knight's demand that she be fired, which was based upon Mrs. Knight's perception that the relationship between Dr. Knight and Ms. Nelson was a threat to their marriage.

Under the Iowa Civil Rights Act, it is unlawful to discharge or otherwise discriminate against an employee because of the employee's gender. Dr. Knight argued that Ms. Nelson's employment was not terminated because of her gender, but because of the nature of their relationship and the perceived threat to his marriage. Dr. Knight noted that all of his employees are women. Ms. Nelson argued that the termination of her employment constituted gender discrimination because Dr. Knight's attraction to her and the perceived threat would not have occurred but for her gender.

The Court stated that cases interpreting federal civil rights law guide the Court's interpretation of the Iowa Civil Rights Act. The Court then discussed a series of federal cases finding that favoritism in employment based upon a consensual sexual relationship between an employer and an employee did not constitute gender discrimination, even though the sexual relationship would not have occurred but for the employee's gender. The rationale in these cases was that it was the employee's sexual conduct, not the employee's gender, which resulted in an adverse employment action. The Court reasoned that the result should be the same whether the sexual relationship results in either favoritism or unfavorable

treatment of the employee. The Court analogized that line of cases to the facts in the case at hand. If a termination based on a sexual relationship would not, in and of itself, constitute gender discrimination, nor should the relationship between Ms. Nelson and Dr. Knight. The Court acknowledged the key distinction that Ms. Nelson had not engaged in any sexual conduct with Dr. Knight. The Court noted, however, that alleged improper conduct by an employer is the issue in employment discrimination cases, not improper conduct by an employee. Therefore, Ms. Nelson's choice not to reciprocate Dr. Knight's attention would not determine the outcome of the case. The Court also cited a case similar to this one, in which a female employee's employment was terminated for causing jealousy within her employer's family, for which she was blameless. The cause of the termination in that case was found to be the employer's desire to resolve the familial conflict, not the employee's gender.

The Court rejected an assertion by Ms. Nelson that any termination of employment because of an employer's physical interest in an employee is, by definition, gender discrimination. The Court stated this would mean that any termination of employment resulting from a consensual relationship would amount to gender discrimination, because the relationship would not have happened but for the employee's gender. The Court noted that under federal precedent, the consensual relationship is considered to be the determining factor in such cases, not the employee's gender. The Court then drew a distinction between what it called an "isolated employment decision based on personal relations" and gender discrimination. The Court stated that a decision "driven entirely by individual feelings and emotions regarding a specific person" is not a decision based on the person's gender. The Court acknowledged that Dr. Knight's treatment of Ms. Nelson was unfair, but stated that the Iowa Civil Rights Act does not prohibit employer conduct that is merely unfair, if it is not discriminatory. The Court stated when Dr. Knight replaced Ms. Nelson with another woman, he did not violate the goal of the Iowa Civil Rights Act, which is to ensure equal treatment of employees regardless of their gender, not to ensure that employees are treated fairly.

The Court also acknowledged a lack of other factors which might have resulted in a different outcome. Ms. Nelson did not show that Dr. Knight had treated any other employee the way he treated her; that he had terminated her employment for failing to conform to gender stereotypes; or that he had engaged in sexual harassment. The Court reasoned that Dr. Knight's termination of Ms. Nelson's employment out of concern that he might commit sexual harassment in the future is not the same as actually committing sexual harassment.

Impact and Applicability

Under the Iowa Civil Rights Act, Iowa Code §216.6(1)(a), it is unlawful to discharge or otherwise discriminate against an employee because of the employee's gender. The Court held that this prohibition does not prevent an employer from terminating the employment of an employee because the employer is attracted to the employee and the attraction is perceived to threaten the employer's marriage. This case establishes the principle that, under the Iowa Civil Rights Act, adverse employment action taken solely due to an employer's attraction toward an employee, even if that attraction would not exist but for the employee's gender, is not considered to be gender discrimination. The Court drew a distinction between adverse employment action motivated by personal feelings toward a particular person and adverse employment action motivated by bias against that person's gender. While the Court agreed that the conduct at issue in this case was unfair, the Court stated that the Iowa Civil Rights Act does not prohibit unfair conduct, only discriminatory conduct.

LSA Monitor: Jack Ewing, Legal Services, (515) 281-6048.