

Employee's Refusal to Sign Acknowledgment of Disciplinary Report Has Dire Consequences for Employee

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In *Paratransit, Inc. v. Unemployment Insurance Appeals Board*, the California Court of Appeals recently affirmed a trial court decision that an employee's refusal to sign an acknowledgment of receipt of a disciplinary report constituted "willful misconduct" sufficient to support termination of a union employee, and to disqualify him from receiving unemployment compensation benefits.

The employee, a passenger bus driver, was in a union, and his employment was governed by a collective bargaining agreement (CBA). He believed that his union president told him not to sign "anything" given to him by the employer without a union representative present.

In response to a passenger complaint about this employee the employer conducted an investigation, resulting in a determination that the employee engaged in misconduct. The penalty for this misconduct under the CBA was loss of two days' pay, not termination.

The employer presented the employee with the written results of the investigation, and asked him to sign the report. The signature line stated that the employee would be signing only to confirm his "receipt" of the report. The employer representative also told the employee that he was only acknowledging his receipt of the report, and that if he did not sign the document, the employee would be terminated.

The employee refused to sign, claiming that he feared he was being lied to, that he would in reality be admitting to wrongdoing, that he was relying on the advice of his union president, and that the conversation happened after a long shift and he was tired. The employee argued that, when taking all these factors into consideration, his refusal to sign was at most a good faith error in judgment — which, if true, would entitle him to unemployment benefits.

The Court, in rejecting this argument, held that the employee "cannot so easily sidestep his obligations to his employer by a bald assertion that he did not believe what the employer's representative told him." The terms of the acknowledgement were clear, the employee was merely acknowledging receipt. Further, the union president did not instruct the employees not to sign "anything" (but rather to request union assistance if being asked to admit guilt), and, in any event, the employee could not rely on erroneous advice. The Court concluded that if the employee's arguments were accepted, "no employee would ever have to obey an employer's directive."

In sum, the employee's refusal to sign the acknowledgement constituted:

- disobedience of a lawful and reasonable directive sufficient to justify termination; and
- misconduct sufficient to deny unemployment benefits

Conclusion

This case underscores the importance of requiring employees to sign an acknowledgment that the employee has received and read any disciplinary reports. This minimizes an employee's arguments that a termination comes as a surprise and that the stated reasons are a pretext. The employee's refusal to sign the acknowledgment may also create a whole new and easier path to termination and a reduction of unemployment claims.