

Conspicuous Disclaimer In Employee Manual Bars Employee's Suit By Karen Sutherland

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A 7-Eleven employee claimed that she could not be fired because the company's progressive counseling system had not been followed. The court stated that the employee was at-will, and thus could be terminated at any time for any reason, or for no reason.

7-Eleven's corporate policies and procedures manual contained a conspicuous disclaimer at the beginning, and the part of the manual that contained the company's progressive counseling system specifically stated that progressive counseling "may be initiated" by the employee's supervisor. The manual did not state that progressive counseling was required.

In upholding the employee's dismissal, the court applied the rule that an employer's inconsistent representations or contradictory employment practices may negate the effect of a disclaimer. The court found that the disclaimers in 7-Eleven's policy made it clear that "cause" was not required to discharge an employee, and that the progressive counseling system could be initiated at the discretion of the employee's supervisor. As such, the employee could not reasonably rely upon evidence of 7-Eleven's practice of using the disciplinary procedures in other proceedings.

Conclusion: This case reiterates the importance of having a prominent up-to-date disclaimer in every employee manual, and emphasizes that the employer's actions must be consistent with the disclaimer. Employers who contradict the at-will disclaimers in their manuals by oral promises, subsequent memos, disciplinary forms or inconsistent practices are likely to lose their at-will status. *Nelson v. Southland Corporation*, 78 Wn. App. 25 (1995).

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