

Legal Notes: June 2012

Discipline at work is a fact of life. Forms at work are another fact of life. What happens when the two meet? A recent unemployment insurance decision clarified what happens when an employee doesn't sign a discipline form.

Some, but not all employers, have discipline forms. When discipline is given, the employer completes the form with some information about the discipline, the penalty and what may happen next if further problems occur. Simple enough so far.

The problem comes when the employer asks the employee to sign this form. Typically, the reason an employer asks for an employee signature is to confirm two things: one, that the employer gave the information in the form to the employee and two, that the employee understood what was being told to him or her. In that case, signing the form is kind of like a receipt.

Rarely, if ever, does signing the form act as an admission or acknowledgement by the employee that he or she is admitting to the wrongdoing alleged by the employer. Some forms even go so far as to print that provision on the form itself. However, some employees are understandably nervous about signing and choose not to do so.

A recent Court of Appeals decision in Wisconsin held that an employee's refusal to sign a discipline form may not only be considered a quit but also make the employee ineligible for unemployment insurance benefits. This ruling is a shift in favor of the employer. Previously, failure or refusal to sign wasn't considered a quit, at most such a failure or refusal may have lead to further discipline.

It has always been my advice that unless such a form has some explicit admission language (which few do), then the employee should just sign the discipline notice. If the employee is uncomfortable with what he or she is signing, they can either add some language with their signature or add a note to their personnel file explaining the signature.