

Agency Nurse: Facility Bound By Contract If A Nurse Is Hired Directly.

An extended care nursing facility was hit with a \$94,622.50 civil judgment after the facility directly hired seven nurses who had been referred to work at the facility by a nursing staffing agency.

The contract between the nursing agency and the nursing facility prohibited the facility from directly hiring any nurses sent to the facility by the agency, unless the facility was willing to pay the agency a finder's fee of 25% of the nurses' first-year annual salaries.

This arrangement is fairly standard in the industry. A judge only needs to use his or her common sense to interpret the contract in the agency's favor.

SUPERIOR COURT OF NEW JERSEY,
APPELLATE DIVISION
October 12, 2007

The facility apparently got into a dispute with the agency over the commissions it was paying for the agency's nurses, tried unsuccessfully to re-negotiate the contract, then just went ahead and hired the agency nurses directly on its own payroll.

The court found the facility in breach of contract and awarded as damages 25% of the nurses' annual salary, following to the letter the terms of the contract the facility signed with the agency. Mercury Staffing, Inc. v. Newark Extended Care Facility, Inc., 2007 WL 2963225 (N.J. App., October 12, 2007).