

Narcotics Diversion: Employer Went Beyond Collective Bargaining Agreement, Nurse Can Sue.

A registered nurse was accused of stealing narcotics from the hospital where she worked.

The nurse claimed her co-workers confronted her and forcibly prevented her from leaving the premises for a period of time during which she was strip-searched and forced to give a urine sample and a Breathalyzer test.

She sued the hospital for false imprisonment, assault and battery, invasion of privacy, defamation and intentional infliction of emotional distress.

The US District Court for the Eastern District of Washington has not passed judgment on these allegations except to say that if they are true the nurse would have the right to sue.

As yet only a technical legal point has been resolved, that this case is not a dispute over the interpretation of the

When a nurse is accused of narcotics diversion, and there is a collective bargaining agreement with the nurses' union, the employer's recourse is strictly defined by the collective bargaining agreement.

An employer can be liable for civil assault and battery, false imprisonment, etc., if the employer tries to exceed the employer's authority under the contract.

UNITED STATES DISTRICT COURT
WASHINGTON
February 5, 2007

nurses' collective bargaining agreement and therefore belongs in state court, not Federal District Court.

A dispute over the interpretation of a collective bargaining agreement must be resolved the way the agreement provides, that is, as a rule a Federal court would simply order binding arbitration.

However, when an employer takes action not authorized by the collective bargaining agreement in the first place, the employee's right to a civil suit is not circumscribed by the collective bargaining agreement. If the employer crosses the line and commits wrongful acts for which the employer has no legal authority, the employee can sue for damages. ***McKenzie v. Kadlec Medical Center, 2007 WL 433088 (E.D., Wash., February 5, 2007).***