

Drug-Free Policy: Nursing Home Is Allowed To Fire Employee For Furnishing Drugs To Resident.

A nursing home maintenance man denied he himself had supplied drugs to a resident.

He claimed, therefore, his termination was not justified for dealing drugs on the job in violation of the facility's drug-free policy. Not having been fired for just cause, he claimed he was entitled to unemployment benefits.

The Court of Appeal of Louisiana pointed out, however, he freely admitted he told a resident his sister-in-law, also a nursing home employee, might be able to get him some marijuana.

By law his conduct was criminal facilitation and basically the same as if he had consummated the illegal transaction himself. He committed a crime and could be terminated for just cause, the court ruled.

Acting as go-between between a resident and a relative dealing drugs is the same as dealing drugs.

Facilitation of the sale of marijuana is a crime and amounts to employee misconduct justifying termination for cause.

The nursing home's drug-free policy also required every employee to report any known drug activity in the facility.

COURT OF APPEAL OF LOUISIANA
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The facility had more than one sufficient legal basis to fire this employee without risk of a wrongful termination lawsuit or liability for unemployment compensation. The court upheld the facility's right to enforce its aggressive internal drug-free policy.

The man signed and received a copy of the facility's drug-free policy statement when he was hired and knew that adherence to the policy was a condition of continued employment.

The facility's policy required every employee not only to refrain from all drug activity but also to report any drug activity known to be going on within the facility. Proving what he did was not an issue because he admitted it. ***Jackson v. Board of Review***, __ So. 2d __, 2007 WL 57764 (La. App., January 10, 2007).