

Employee Misconduct: Discrimination Suit Dismissed.

An aide was terminated for four incidents of misconduct on the job. He responded to his termination by filing an employment-discrimination case against his former employer.

The aide was accused of failing to respond or even to acknowledge a page from a nurse, improperly copying confidential patient records containing the names of the patients, refusing to assist another aide in repositioning a patient in serious respiratory distress, after several requests, and violating special procedures for isolation of patients with antibiotic-resistant staph infections. The patient with whose repositioning the aide refused to assist was transferred to the ICU the same day and died the next day, although it was not directly alleged the aide in question was to blame for the patient's death.

An employer can respond to charges of employment discrimination by showing one or more legitimate, nondiscriminatory reasons for the action taken against the employee.

UNITED STATES DISTRICT COURT
WASHINGTON
October 4, 2005

The US District Court for the Western District of Washington noted the aide could not identify a non-minority with an equivalent record of patient-care deficits who had been treated more favorably by the employer.

More convincing, however, were the serious errors and omissions committed by the aide, which, in the court's judgment, amounted to legitimate, nondiscriminatory reasons for the action his superiors had taken against him. **Howell v. Swedish Medical Center**, 2005 WL 2455020 (W.D. Wash., October 4, 2005).