

Terminating employee



Harvey Stanton, the owner of Stanton Title Insurance Company is being forced to make a difficult decision. After the recent election of three “ no growth candidates” to the city council, paired with a new competing insurance company, Stanton has noticed a significant decline in workload for his five title examiners. Now, Stanton has to decide how to reduce his title examiner staff to compensate for the reduced workload. When considering criteria for making staff reduction decisions, Stanton must be aware of the legal implications of his decision.

Which Employee Should be Terminated? Terminating employees is often-times a very difficult task for managers. However, restructuring staff through attrition, terminations, and layoffs may be necessary to achieve the right staff to workload balance and to stop a company from going under. At Stanton Title Insurance Company, Harvey Stanton has decided that he is going to use staff reduction to reduce organizational costs and lessen the financial loss the company is suffering due to a decline in business. He understands that he has to consider all potential HR and legal issues that may arise from his ultimate decision.

With terminations and layoffs, lawsuits could be filed and litigation costs could cost the company hundreds of thousands of dollars. Considering the five title examiners of Stanton Title Insurance Company, each and every one could possibly bring a viable legal complaint against the company in the event of a layoff. Concerned with possible litigation and limited information, behavior, performance evaluations, and corrective action will not be used as criteria in this decision. Harvey Stanton has to be knowledgeable of federal,

state, and local law as well as EEOC rules and regulations when making this decision.

Symptoms & Root Problem In the case of the Stanton Title Insurance Company, we were able to determine the symptoms, problems, long and short-term solutions. There is one symptom in this case in which Stanton noticed that has led him to be forced with a difficult decision. Stanton noticed a significant decline in work load for his title examiners. In other words, Stanton now has a higher number of employees than the workload would require. The work load decline can be traced to two sources of the problem. One problem is the election of three “ no-growth” candidates to city council.

This has an impact on Stanton’s business as the business thrives on the purchase of properties. The buyers of properties are the target customers in which the insurance policies are sold. With the addition of these “ no-growth” city council members, they are discouraging the sale of real estate and property growth which will result in a decline in property purchasers. The second source of the problem is recently, a competing firm emerged. This is a problem as it is not only competing for the same customers, but competing in a market that has been reduced in size due to the newly elected city council members.

These two problems are the cause of the reduced workload. Now that the problem has been determined, Stanton is looking to find a solution to the problem which he is focused on a short term solution. A short term solution will alleviate the symptoms only temporarily, while a long term solution will focus on the deeper root problem. Therefore, a short-term solution will focus

on ways to compensate for the reduced work-load. A long-term solution will gain business for the company. Alternative Solutions 1. Terminate Rick Feinberg 2. Implement a furlough day for each of the five employees . Continue to do business without any changes 4. Offer an early retirement plan to Anthony Pope Analyze Alternative Solutions Option 1: The decision to terminate Rick Feinberg was highly favored by Stanton and it would likely not lead to a viable EEO complaint. Terminating Feinberg could potentially be an advantage and a disadvantage for the firm. A major disadvantage of terminating Feinberg would be the loss of his knowledge and expertise of the job. He has been with the firm for twenty years and has the acquired skills to resolve difficult title policies.

Although Feinberg ranks high in performance, he lacks in cooperativeness, is difficult to get along with, and antagonizes other employees. He also refuses to pitch in and perform work that's not specifically related to title examination which causes more work for other employees. Terminating Feinberg could potentially create a better work environment; however if Feinberg has not received any disciplinary notices for his behavior he could potentially bring a lawsuit against the company for wrongful termination.

He could claim that there was a breach of good faith and fair dealings. However considering this as a layoff/downsizing, it is likely that his claim would not hold. Accounting personnel advised Stanton that the company cannot afford to be involved in any legal situation that would cause any financial stress on the company. In the past, there was a common law rule that presumes employment to be terminable at will, thereby granting

employers absolute freedom to discharge without notice and without cause” (“ Protecting At-Will,” 1980).

Today, discharged employees can redress their grievances through the court system, imposing significant costs to the employer in the process (Tomlinson & Bockanic, 2009). Although Harvey Stanton may have reasons to terminate Mr. Feinberg he does not have legitimate grounds considering Feinberg’s 20 years with Stanton Title Insurance Company. The company has not generated reprimands or unfavorable performance evaluations, nor have they received any complaints regarding Mr. Feinberg’s behavior. Justification for terminating Mr. Feinberg would not be foolproof.

Although Feinberg’s insubordination is grounds for immediate termination, losing an employee with 20 years of experience is a concern. Option 2: “ A furlough refers to a nonpermanent, unpaid leave of absence implemented by an employer as a cost-saving measure” (Brutocao & Marshall, 2010). The implementation of furloughs has also been used by companies to avoid employee layoffs (Halbesleben & Wheeler 2013). If Stanton implements one furlough day a week for each of the five employees he would not have to terminate anyone from the firm.

Although the use of furlough days will help the company cut costs, it will also cut essential hours for employees who need to be working on acquiring new customers and maintaining current customers. This could be disadvantaging the firm’s top examiners who are needed to help rebuild the firm. This could create financial stress on employees with a decrease in employee salary which may cause them to seek employment elsewhere. This could also cause frustration, resentment, and lead employees to neglect current assignments.

Studies have shown that the implementation of furlough days could cause emotional exhaustion and negatively affect job performance (Halbesleben, Wheeler & Paustian-Underdahl, 2013). Option 3: The firm could continue to do business as usual in hopes that business will improve; however the decision to stay with the status quo is not acceptable. The firm will begin losing money if it chose this solution. This solution would most likely be more of a hindrance than a help. If the firm does not start to gain new clientele, Stanton will be forced to terminate more than one examiner.

Losing more examiners would place the company in a worse position than it is currently. If the business improves, then it would not have cost the firm anything to try to resolve the problem. Option 4: This solution will offer Anthony Pope an early retirement option which could reduce its staff and financial costs. The U. S. Office of Personnel Management (OPM) is asked to permit early optional retirement for eligible employees. An employee is eligible for early retirement if the employer undergoes a reduction in force, or the employee is involuntarily separated. In this case Antony Pope seems to be eligible for an early retirement plan.

Providing early retirement incentives would invite the employee to voluntarily retire Minimum Retirement Age (MRA) and in turn provide them with some sort of benefit. Best Solution According to Davidson and Worrell (1996) some firms use the option of early retirement when they have experienced deterioration in workload which leads to a decline in financial performance. If the early retirement option is accepted by Pope, this solution would be beneficial to both the employer and the employee. Because Pope is 63, he could also begin to receive his Social Security benefits.

Based on the Older Workers Benefit Protection Act, Pope must be given a minimum of 21 days to decide whether he will accept or decline the offer (US EEOC, n. d.). HR Legal Issues There are several laws or legal issues identified with our decision that may apply to the problem in this case. Laws to consider are The Age Discrimination in Employment Act of 1967, The Older Worker Benefit Protection Act, and The Employee Retirement Income Security Act of 1974. The Age Discrimination in Employment Act of 1967: This act also known as ADEA prohibits employers from discriminating against employees over age 40.

This act will be considered as both Anthony Pope and Feinberg are over the age of 40 and are nearing retirement age. The Older Worker Benefit Protection Act of 1996: This act also known as OWBPA requires benefits be offered under a voluntary bona fide employee benefit plan with benefit payments or costs for older workers at least as high as those for younger workers. The stipulations within this act will be factored into decision making to ensure Mr. Pope is being offered a legally fair early retirement package.

The Employee Retirement Income Security Act of 1974: This law also known as ERISA and The Internal Revenue Code imposes a variety of benefit limits and nondiscrimination requirements on contributions to qualified and 403(b) retirement plans used as an incentive to retire early by private employers. ERISA is a federal statute that sets standards for most employer and union sponsored retirement plans. ERISA and the Internal Revenue Code play an important role in the implementation of early retirement plans; Stanton Title Insurance Company will incorporate the requirements of this Act in its offer to Anthony Pope.

Implementation When implementing an early retirement offer, it is necessary to put a strategy in place that includes a plan, agreement, and decision. Although Harvey Stanton has always followed the policy of making all major decisions himself, he enlists the help of his HR personnel to assist him with the decision of which title examiner he should terminate. Mr. Stanton does not want to find himself or his company being accused of discrimination or unlawful employment practices. Seeing that Anthony Pope is nearing retirement age, HR will gather information regarding voluntary separation programs.

Mr. Stanton will meet with Mr. Pope. A representative from the Accounting Department will stress to Mr. Pope that the incentive being offered is strictly voluntary. Mr. Pope will be advised that he will be allowed three days to make his decision and that HR will be available to answer any questions as they come about. HR will also stress that it was imperative that Mr. Pope put all his questions in writing as he will receive the answers to his questions in writing. HR will further stress that they are not allowed to offer Mr.

Pope any advice (legal or otherwise) and that their answers will be in accordance with federal, state, and local laws, EEOC regulations, as well as Stanton Title Insurance Company policies and procedures. The offer: In lieu of Mr. Pope retiring early (age 63) and surrendering his pension plan, he will be offered a voluntary early retirement incentive and buyout package that will include:

- A one lump sum payment of \$70, 000 (two year's salary)
- Medical health coverage until the age of 66
- Dental and vision coverage for one year after this offer becomes effective

Mr. Harvey will stress that this offer is strictly voluntary. According to the Social Security Administration, persons born between 1943 and 1954 reach full retirement age at 66 (<http://www.ssa.gov/>, n. d.). Mr. Pope will be advised that at age 65 he can begin receiving monthly Social Security benefits; however, he would only receive 93.3% of the amount he would receive if he waited until age 66 (full benefits). If Mr. Pope wanted to begin receiving Social Security benefits at age 63, he would receive approximately 81% of his full benefits.

Mr. Pope will be given written instructions on how to access this information through the Social Security Administration Website. If accepted, Mr. Pope will have two weeks before he is to vacate his position and 30 days before he receives his \$70,000 check. He will be compensated immediately for any accumulated unused vacation days. Conclusion Major decision making such as staff reductions, terminations, and layoffs require strategic planning that involves management and human resources personnel if applicable.

Management has to understand the problems that caused the need for staff reduction and examine multiple solutions before determining which is best for the company. Harvey Stanton has to be knowledgeable of the laws, regulations, and policies regarding terminations, layoffs, and early retirement plans before he can make an educated and effective decision for Stanton Title Insurance Company. His ultimate solution must be in the best interest of the company and should diminish, if not resolve, the problem(s) that caused the need for staff reduction.