

Analyzing concerns in preemployment testing

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Analyzing concerns in pre-employment testing Guidelines to the Human Resource Professionals This scenario is the case of a defamation of an employee by a former employer. Such cases are common in the job market with the prospective employers wanting to do a background check of the prospective employees first (Walsh, 2013).

In this case, the various infractions of law or regulation that are involved include defamation, assault, slander and libel. Defamation arises by the truck driver claiming to have been defamed by the former employer for being positively tested for use of drugs. Assault is noticed when truck driver is further accused of having been involved with an altercation with another driver at the truck stop. A libel suit, therefore, arises from the defamatory stories that the complainant accuses the former employer for spreading against him. In this case, it would be perceived as a labor dispute (Walsh, 2013). In this scenario of drug use, I believe that the person in fault is the office worker for having negligently acted towards the recording of such a statement against one of their employees. She, in fact, acknowledged that the statement about the positive drug test was a 'mistake on her part'. The former employer is at fault for the defamatory statements regarding the drug test and the altercation at the truck stop since no official record of an arrest or proof could be found.

Complainant's arguments

First, they argue that the former employer has defamed their names and tarnished their reputation by allegedly linking them to a positive drug test which was not the case. In reality, the office employee who was tasked with the reporting of the same is the one who had erred. Second, they argue that the alleged altercation at the truck stop did not happen as even the official <https://assignbuster.com/analyzing-concerns-in-preemployment-testing/>

records of an arrest or even proof that it happened could not be traced. Third, the complainant argues that it is, therefore, out of context for the prospective employer to refuse to hire or employ him based on these allegations from the former employer, which have no basis as none can be proved or accounted for. In general, the complainant distances himself from any arrests which might have been recorded against his name.

Employer's defense

The prospective employer defends itself from the allegations of refusing to hire the truck driver based on the reports they get from the former employer, to which they take as true. This is because the former employer has not denounced them as false.

On its part, regarding the arrests, the former employer defends itself by stating that it had received several reports that the driver had been implicated in an altercation with another driver at a truck stop and put the information in the driver's personal file. However, no mention is made of the authenticity of the reports the employer records to which the employee disputes.

Investigatory and regulatory processes that might be required

In this case, the first process would entail an investigation conducted about the complaints raised with the view of a possible prosecution (Schmeisser, 2013). This investigation should seek to address certain fundamental aspects, being:

- a. Whether the court can sufficiently rely on the claims from the complainant and the unsupported evidences from the former employee in deciding the case.
 - b. The nature of the case into which it is the court's duty to give a ruling or
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not.

Consequently, the processes that might arise include:

- a. The parties to the case being legally represented in court by lawyers.
- b. The court may compel the former employer to produce all the proof to sustain their allegations, not in favor of the truck driver. The disclosure of such documents is what shall aid in determining the case (Schmeisser, 2013).
- c. The panel of judges in the case would sit with a legal counselor to ensure that the court observes applicable common law rules.
- d. The parties to the case would choose the evidences to use in supporting their cases. These evidences shall also be given under oath.
- e. Finally, the witnesses may be subject to cross-examination and examination-in-chief in line with the legal proceedings required.

My Decision

In this case, my decision as may appear to be held by the court in like manner would be for the prospective employer to employ the truck driver since the reasons for disqualifying them are unfounded and baseless with no evidences. Second, I would compel the former employer to pay for the suit chargers and pay the complainant - truck driver, a sum similar to the damaged caused through defamation for faulty reports against him (Walsh, 2013).

The court should decide on asking the prospective employer to reinstate the driver since their disqualification was baseless. The former employer should pay for all damages and penalties.

References

Schmeisser, W. (2013). International Human Resource Management and <https://assignbuster.com/analyzing-concerns-in-preemployment-testing/>

International Labour Law: A Human Resource Management Accounting Approach. München: Oldenbourg.

Walsh, D. J. (2013). Employment law for human resource practices (4th ed.).

Mason, OH: South-Western, Cengage Learning.