

Case study, labour relations: grievances essay

[Business](#), [Management](#)



Longlife Health Management (the employer) is a company contracted to provide health care aides (the employees) to work at a senior citizens' facility.

The Care Workers' Union (the Union) has been trying to organize a campaign to represent the health care aides as a bargaining unit. The Employer upon hearing about the union organizing campaign had sent out a memorandum to the employees stating its views against the union forming. However, a week after the memo was sent out, the employer terminated an employee, Guillermo Gardel, who was a participant in the campaign organizing, for failing to follow proper lifting procedures and lying when questioned about his actions.

The termination of this employee was seen as an anti-union animus because the employer stated that it was opposed to unionization. Relevant Facts: The employer sent out a memorandum to the employees, stating that "having a union also adds extra administrative costs to business... and forces it to spend more money in lawyers and consultants" rather than putting money into wages and benefits. It also went on to provide an example of another company who had unionized and lost contract work. On March 19, Guillermo Gardel, one of the health care aides was terminated on grounds of not following employer policies of proper lifting procedures and lying when questioned about his actions. On March 19, Sandra Koster, the facility's assistant care manager told Joan Havers, the employer's district manager that she had seen Gardel bringing a resident back to their room without the aid of a lift mechanism or the assistant of another aide. Later when Havers asked Gardel about how he got the resident into the bed, Gardel had lied and

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said he had help from another aide. On March 19, Havers and the president of Longlife had numerous conversations regarding Gardel's actions and his two previous listed incidents. Both of which were two verbal warnings for "resident-related issues" and a two-day suspension for being absent without leave.

Havers had said that she had the approval of Longlife's president before she terminated Gardel. Havers had also mentioned during phone conversations with the president that she had been informed that Gardel was involved with union activities. Last year, when improper lift procedures were done, a resident ended up with a broken leg and the employer suffered significant financial damage. After the incident, the employer required all employees to attend a training session on lifting practice and a signed document acknowledging that they had received and understood the training. There were also memos to all staff reminding them that two people were required for a lift and that information regarding lifts could be found in the information at the resident's bedside.

The aide who had caused the incident was not disciplined but was transferred to another facility. She had claimed that she should not have been disciplined because it was common practice for the aides to move the residents by themselves or without a mechanical lift. Several weeks after Gardel was terminated, two other aides were disciplined for violating the lifting policies. Both aides only received verbal warning and no other punishment. Strength and Weaknesses of Parties Arguments: The union and the employer disagreed on the intent and impact of the memorandum that

were sent to the employee. The company's position was that the letter did not contain any threats and that the 'context' of the example of the other company did not mean that they were threatening to reduce wages. The memo also stated that the employer is not afraid of dealing with the union. The union argued that the employer's memorandum to the employees was both coercive and intimidating, considering the fact that many of the employees are recent immigrants who came from countries where joining unions lead to serious reprisals.

The case of the employer terminating Gardel was based on his violation of workplace policies regarding lifting procedures and the fact that he had lied about the incident in question. He also had previous disciplinary offences on his record. The employer regarded the testimonies of employees that the policies regarding safe lifting and moving of residents were often ignored. The employer states that employees may have witnessed the violations of the policies, but none were ever reported. Gardel's violation was the only one that the employer was made aware of. The union argued that Gardel was terminated because he was involved in the organizing campaign and the employer had stated that it did not support the certification of a union. Also Havers, the Longlife manager who fired Gardel did not have proper documentation of the phone conversations to the presidents and meetings leading to the termination.

It also argues that the verbal warnings in Gardel's prior incidents was a form of informal discipline and by firing Gardel, the employer had violated its own policy of progressive discipline. Conclusion: The employer has the right of

free speech and to communicate with employees; however it should be restricted to business content. Though the memorandum was to address the concerns of possibly fewer contracts and financial means of being better off spending money on the employees' wages rather than on lawyers and consultants, the employer had induced an unfair labour practice. The memorandum by the employer may not have meant to be coercive or threatening, but it can be seen as an issue that could have intimidated the employees, thus it could have unduly influenced the employee's decisions in the certification process. On the matter of the Gardel termination based on the violation of the workplace lifting procedures, it does not meet the regulation of the balance of probabilities.

The employees had mentioned that it was a common practice amongst health care aide workers that when lifting a resident, it was usually done alone or without the aid of a lifting mechanism. The employer made all employees attend a training session on the proper lifting requirements and procedures, giving employees access to skills, training and information. They had also given memos to all employees stating the importance of following the lifting policy. Gandel's incident was not the first of its kind among the employees, but since he had a record of prior disciplinary incidents, it led to the dismissal of his employment. Two other verbal warnings were issued after Gardel's dismissal, though it is known that because Gandel had the prior incidents, he was therefore punished more harshly than the two other aides.

Gardel's termination is seen as an attempt by the employer to intimidate employees and constitute interference with the employees' right to representation by a union. Even though the employer had intended to enforce the regulations of proper lifting procedure previously, the company chose to enforce the punishment of not following the policy after the organizing campaign had started, thus making the enforcement appear as an anti-union tactic.