

# Toy company constructive discharge



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Mr. /Mrs. CEO In the presented case, it is evident that the case of constructive discharge is a viable possibility as an infringement of employee rights as it pertains to Section VII of the Civil Rights Act of 1964. Constructive discharge as described by the Equal Employment Opportunity Commission (EEOC) is any discriminatory practice that affects a person's individual rights and forces him to resign or terminate based of race, religion or other forms of discrimination.

In this particular case, the employees religious beliefs are directly affected due to a work related scheduling change and the employee has cause to file a wrongful termination suit; however, there a few stipulations that prevent this from being an open and shut case and more information will need to be gathered to continue.

Constructive discharge is relevant as a legal concept in this case according to Title VII which states that it is unlawful " to discharge, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion sex or national origin. " In the described case, arrangements were made to increase factory production by requiring employees to work four 12 hour shift on any day of the week which the said employee states directly affected their religious obligations.

Further analysis of the background information will be beneficial to consider but is prudent to advise that the company consider mediation with the EEOC as its primary activity in this case going forward. This would mean that our company attempt to work out with the EEOC exactly how Toy Company was

in the wrong and make amends if it is determinable. According to Title VII, the employee will have to prove he has been religiously discriminated against and that the employer was given appropriate time to react accordingly (“ Working on the Sabbath/Sunday”).

However, if the employer was already notified of the employees religious beliefs the verdict could favor the employee and his case could be valid (“ Working on the Sabbath/Sunday”). We see in the case Redmond vs. GAF that the verdict favored the plaintiff as the defendant “ failed to show any effort to reasonably ‘ accommodate’ plaintiff’s religious practices or that an accommodation effort would have caused the defendant any ‘ inconvenience’ (Redmond v. GAF, 1978). The flip of this coin would be the case of Pielech vs. Massasoit Greyhound.

Two employees were required to work on a religious holiday and the court stated that “ Church law forbids servile work on Sundays and holy days of obligation, but exceptions are made for those functions that are necessary for the well-being of society, or for those who must support their family or to maintain their livelihood“ (Pielech vs. Massasoit Greyhound, 1996). These legal examples provide two platforms of insights as to how this process could turn out if it were taken to litigation. It is therefore advised that Toy Company seek to mediate with the former employee.

Mediation through the EEOC can often remedy the dispute more swiftly and economically than litigation. For future practices, proper management training would be beneficial to employees and company in regards to the Civil Right Act of 1964 Section VII; focus should be placed on effectively

communicating an employee's options even under mandatory work schedules. Also, assigning someone (likely someone in Human Resources) to review all companywide mandates to act as a liaison with the EEOC and make sure all company mandates are properly evaluated before inception.