OK to Fire Employee for Taking Disability Leave without Permission



A helpdesk programmer suffering from migraine headaches took short-term disability leave without providing medical evidence of her condition. You'll need to provide medical support if you take leave again, she was told upon returning. The programmer was not amused and slammed a book on her desk; she did the same thing later when she learned that she had been passed over for a promotion she thought she deserved.

A tense situation got even worse when it came to the light that the programmer had deleted a bunch of records and had to spend 2 days re-entering them. The boiling point was reached when the programmer again took disability leave and was ordered back to work. When she refused, she was fired for absenteeism. She then sued for both wrongful termination and disability discrimination. The adjudicator threw out both claims and the appeals court upheld the ruling [*Macfarlane v. Day & Ross Inc.,* 2013 FC 464 (CanLII) May 3, 2013].

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