Quiz: Which Company Committed Family Discrimination?



SITUATION

- Company A fires a reliable truck driver so it can offer his position to the owner's son.
- Company B, a town, refuses to hire a qualified lifeguard because his wife is employed as a secretary at the town police station.
- Company C fires a valued employee to prevent nepotism after the employee's sister is promoted and made the employee's supervisor.
- Company D adopts a blanket anti-nepotism policy that automatically bans hiring relatives of people who work for the company.

Assume that none of the above companies is located in Ontario.

QUESTION

Which, if any, of these companies committed family status discrimination?

A. Company A

B. Company B

C. Company C

D. Company D

E. All of the above

ANSWER

E. All of the companies engaged in a practice that could result in liability for family status discrimination.

EXPLANATION

Company A committed discrimination by making an employment decision on the basis of family status. In addition to being blatant nepotism, firing a reliable truck driver so it can replace him with a relative would expose the company to liability for employment discrimination.

Company B committed discrimination by refusing to hire a qualified lifeguard because he was married to another employee. This is just as illegal as what Company A did because it involves making an employment decision on the basis of a job applicant's family status.

Company C committed discrimination for the same reason. The subordinate was a valued employee. The only reason she lost her job is that she came under the supervision of her sister. Ironically, Company C was trying to prevent nepotism and a situation where a family relationship between supervisor and subordinate could create a conflict of interest. But while this is a legitimate goal, Company C could have probably found a less discriminatory way to accomplish it, e.g., by reassigning the subordinate to another supervisor.

Company D didn't strictly commit discrimination. But a blanket policy that automatically denies employment to relatives of company employees would be presumed to be discriminatory (or, as lawyers would describe it, *prima facie* discriminatory). Company D would then face the uphill task of rebutting the presumption and proving that the policy was justified as a bona fide occupational requirement.

The Ontario Difference

Note that if the above cases took place in Ontario, none of the companies would be liable. That's because Ontario human rights law (specifically, Section 24(1)(d) of the *Human Rights Code)* allows employers to grant or withhold employment or advancement in employment to a spouse, child or parent of the employer or employee.