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President

Seay Management Report: “A Change In Tone”

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Tales from O’Seay’s Fables . . .

Jonathan McSupervisor had put up with Darrell’s lateness for as long as he could stand it. Darrell wasn’t that bad of an employee, but he was 5-8 minutes late every day. Jonathan had talked with Darrell on numerous occasions but he had not documented any of this in Darrell’s employee file and had not given Darrell a written warning. “Can I fire this guy,” Jonathan asked plaintively? “Better not,” said the consultant, “at least not right now. When it comes to employee matters, it’s not so much what you do as the way you do it.” “Good grief,” said Jonathan, “don’t employers have any rights at all?”

MANAGERS HAVE RIGHTS, TOO

In a world in which employers are constantly bombarded with the rights of employees, we seldom take a moment to think about the fact that managers and supervisors have rights, too. Sure, the playing field is tilted away from employers and when it comes to making employee decisions, the burden of proof is on the employer. Nevertheless, employers have plenty of rights in managing and directing their employee work force. Here are some of them.

Management Has The Right To . . .

- Hire the candidates you feel are the most qualified for the job. Plato told us that the person who should do the job is the person most qualified to do it. Employers do not have to hire underqualified or non-qualified candidates. It’s good to remember that some of the least qualified candidates can sometimes be the most assertive and demanding. When you are interviewing a candidate for employment, you are seeing the candidate at his or her best, and if you have a reservation at this point, it will be worse after you hire the person. Someone once said that the closest a person ever comes to perfection is when he completes an employment application.

- *Establish policy and interpret policy and to change policy whenever, in the opinion of management, this is necessary.* This is called “management prerogative.” Management has the right to establish wages, benefits and working conditions. When it comes to interpreting policy, it’s management’s call. Your employment policies should be included in your employee handbook, written in a conversational manner, that makes your handbook your friend.
- *Expect employees to perform at a high level of excellence and to counsel and discipline employees when they do not.* Sam Walton once wrote that most employees will perform up to expectation, and you can raise performance simply by raising expectations. Employers have the right to expect the best from their employees.
- *Assign duties and responsibilities to employees, even if they are “not in my job description” and even if the employee does not like it.* Every job description should include these words – “This job description may not be all inclusive and employees are expected to perform all other duties as assigned and/or directed by management. Job descriptions and duties may be modified when deemed appropriate by management.” The only time an employee may refuse to do a job is when there is a safety or health risk involved.
- *Require employees to work whatever hours the company requires, including overtime hours.* This is another example of “management prerogative.” Management has the right to establish working schedules and employees are required to work those schedules, even if it’s overtime and even if it’s more hours than normal. There are some minor exceptions in the health care industry in some states.
- *Dismiss employees who are poor performers or who violate company policy.* Most employers I know are doing the best they can to create a good place to work for employers. Most employers I know are good hearted and want the best for their employees. I have often said that you can get in just as much trouble being too good to employees as you can the other way. Being “too good” can mean overlooking lateness and absenteeism for employees who are otherwise doing a good job, giving one employee a raise because “she needs it,” or keeping a poor employee because he or she has been with you a long time. If you’re going to dismiss an employee, you usually need 3 written warnings first.

A CHANGE IN TONE AT DOL

Although the Trump Administration has been in office for just a few weeks, the change in tone at the Department of Labor is extraordinary. The Department of Labor website is www.dol.gov. We visit the site frequently to check on new or changed regulations and we’re also on their email alert mailing list. The previous Department of Labor presented employers, on the web site and in other places, in a very negative light, in that employers were constantly taking advantage of employees and the Department of Labor was constantly uncovering employer wrong doing and forcing the recalcitrant employer to pay back wages and fines.

The new Department of Labor website is completely different with a remarkable change in tone. Now, the web site seems to present employees, employers and the Department of Labor as cooperating partners, helping to make the workplace better. This is a refreshing and welcome change of tone. Most employers I know are not trying to take advantage of employees. To the contrary, most employers I know are doing their best to comply with regulations and to treat employees equally and fairly and with respect and dignity. My sense is that this new tone from the Department of Labor will result in greater satisfaction and cooperation on the part of both employees and employers, and will definitely ease the tension between employers and the Department of Labor.

For example, the previous Department of Labor had issued a rule that would more than double the required minimum salary level for exempt employees, but a Texas judge came along at the midnight hour and issued a preliminary injunction, effectively blocking the regulation. The previous DOL website had a good deal of information, articles and essays about this increase, mostly making the point that "employees had been denied overtime" and this new rule would get it for them. That's not true, of course, but that's how the DOL presented its case.

On the new DOL website, the question of an exempt salary level is nowhere to be found. Whether the minimum salary level for exempt employees ought to be raised is a question worthy of debate, but presenting the employers as conniving manipulators seems to me to be a poor messaging practice. The new website has lots of helpful information, presented in a positive and encouraging way. I particularly like the sections that include "Popular Topics" and the "Top 20 Most Requested Questions."

So, in our view, a previously provocative and antagonistic website has been changed into a cooperative and helpful one and in response I would say, "Well done, DOL."

So, if you have a question about management rights, the Department of Labor, or any other Human Resources Management issue, please call or email your Seay Management Consultant. We are always very glad to talk with you.

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Remember, if you have an employment issue or challenge, and you need an answer right away, and you want the very best Human Resources Management advice available, you need to call . . The Seay Team! We are proud to be your trusted advisors in Human Resources Management.