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What Is Termination For Cause?

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"At-will" employment is an established legal principle in Connecticut. Most non-unionized Connecticut employers publish a statement to employees, either in an employee handbook or employment application materials or both, that the employment relationship between the employee and the company is employment at will. These "disclaimer" statements typically explain that at-will employment means that the employment relationship may be terminated at any time, with or without notice and with or without cause.

Nevertheless, the concept of termination "for cause" is often used even in non-union employment situations. Executive and professional employment agreements often provide the protection that the employer may terminate the agreement only for cause, or that the employee will receive separation pay if terminated without cause. Employer policies sometimes withhold the payment of accrued but unused vacation pay for employees who have been terminated for cause. In the legislative session just ended, the Connecticut Legislature adopted a bill limiting the use of restrictive covenants in physician employment agreements, one limitation being that a restrictive covenant can't be enforced when the employer terminates the agreement, unless the termination was for cause.

Of course, the meaning of the term "cause" may be specified in an employment contract. But in the absence of a contract, what determines "cause" for termination? Last year, in a case called Madigan v. East Hartford Housing Authority, the Connecticut Appellate Court determined that a provision in an employment agreement requiring "just cause" for termination, but not defining the term, meant that an employer could not simply rely on managerial discretion. Instead, the just cause standard required a substantial reason that provided a proper and legally sufficient reason for termination. And the court further held, importantly, that in a lawsuit by a terminated employee for breach of an employment contract, whether the employer had just cause for the discharge will be decided by the jury.

In the Madigan case, the plaintiff was the housing authority's executive director. The jury was not impressed with employer explanations such as rumors of an improper relationship with another employee, acting on "verbal okays" to hire the other employee rather than waiting for a board resolution of approval, raising his voice at a board meeting, walking out of the board meeting but only after board members had said they had no questions for him, and generally bad employee morale at the authority.

As a take-away, the Madigan decision is in line with the general observation of employment law attorneys that a jury will support an employer's termination decision if it seems that the employee was treated fairly, was given a chance to perform, and failed significantly. If the jury feels that there was unfairness and that the

employer had only minor gripes against the employee, there won't be a finding of just cause.

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