

When Can An Employee Quit and Sue?

Working Together

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You might think that before filing a lawsuit for wrongful discharge, an employee would have to actually be discharged, but that is not necessarily so. Employment law includes a principle known as “constructive discharge,” in which an employee can resign but claim that he was forced to quit by the improper actions of the employer, so that the employee has the same right to sue as if he were actually fired.

In Connecticut, the federal and state courts have developed somewhat different definitions of constructive discharge. Both definitions require proof that working conditions were intolerable, that is, they became so difficult or unpleasant that a reasonable person in the employee’s shoes would have felt compelled to resign. But the Connecticut state courts also require a showing that the employer *intentionally* created the intolerable working conditions for the purpose of forcing the employee to resign, while our federal courts have not required such a showing.

In practical terms, this means that for the sorts of claims that can be brought in federal court, such as claims of discrimination, harassment or retaliation in violation of Title VII of the Civil Rights Act, the employee need not prove that the employer had a specific intent to force the employee to quit; instead, the employee can rely on evidence of a deliberate plan to create an intolerable workplace that forced the employee to resign, or can offer evidence that the conditions were objectively intolerable and not merely negligent or inadvertent.

Compare that standard of proof with the standard articulated in [Karagozian v. USV Optical, Inc.](#) a recent decision in the state Superior Court in Meriden, which held that a claim of constructive discharge requires the employee to show both that working conditions were intolerable, and that they were intentionally made so by the employer in order to force the employee to quit. In [Karagozian](#), the claim was dismissed because the plaintiff failed to allege that his employer intentionally created intolerable working conditions.

Aside from these nuances in the law, the key take-away is that no employer should lose control of its workplace to the extent that working conditions become intolerable. Both federal and state courts require the employee to prove that working conditions were so difficult or unpleasant that a reasonable person in the employee's shoes would have felt compelled to resign. If a jury, which is considered the embodiment of the reasonable person, agrees that the working environment was so miserable as to compel an employee to resign, the employer will be liable for constructive discharge.

Posted in Discrimination, Termination

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