

Fewer Fed Employees Quitting, More Stuck in Hostile Work Environments

By Mathew B. Tully

Many federal employees will probably remember 2011 as the year of no escape. With federal agencies either hitting the brakes on hiring or implementing draconian cuts, federal employees increasingly found themselves stuck in work environments that saw morale suffer and, in some cases, turned hostile. In short, economic conditions have resulted in employees feeling as if they have “no way out” of detrimental and hostile work environments.

This notion is supported by the fact that federal employees quit their jobs at a far slower rate in 2011 than in the previous year. In 2011, 113,000 federal employees quit, compared to 147,000 a year earlier and 277,000 before the recession in 2007, according to the U.S. Bureau of Labor Statistics. With more employees unable to escape hostile work environments, it is not surprising that the number of federal employees who filed harassment complaints is also on the rise. In fiscal year 2010, the number of federal employee harassment complainants rose by 7 percent to 6,305, compared to the previous fiscal year, according to Equal Employment Opportunity Commission (EEOC) statistics.

Hopefully, in 2012 more job opportunities will become available to federal employees who have had to endure hostile work environments because they felt they had “no alternative.” However, leaving a job does not have to be an employee’s only option. Employees must keep in mind that it is illegal for employers to subject their workers to hostile work environments. If employees properly understand and assert their rights under the law, they may be able to improve their work environment, reverse any adverse actions to which they had been subjected, and receive damages for the harms they have suffered.

What federal employees need to know:

It is unlawful for supervisors or co-workers to harass employees because of their national origin, sex, race, religion, age or disability.

For a work environment to be unlawfully hostile, the harassment must be so “severe and pervasive” that the individual’s conditions of employment are altered, according to federal courts.

The U.S. Supreme Court noted in *Oncale v. Sundowner Offshore Services, Inc.* there is a difference between “simple teasing and roughhousing” and “conduct which a reasonable person...would find severely hostile or abusive.” This is the standard that must be met in order to prove subjection to a hostile work environment.

With regard to discriminatory harassment and creation of a hostile work environment by coworkers, the employing agency will be liable if it knows of or should have known of the

conduct, unless it can show that it took immediate and appropriate corrective action.

Federal employees who find themselves in a hostile work environment should consult a federal employment lawyer to explore whether they should file an Equal Employment Opportunity (EEO) complaint. Federal employees may also have the right to file an appeal to the U.S. Merit Systems Protection Board (MSPB) if the hostility in their workplace resulted in or influenced an adverse action, such as removal, suspension or reassignment. Additionally, employees may be entitled to file a complaint with the Office of Special Counsel if they were retaliated against for having engaged in protected whistleblower activity.

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