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CONNECTICUT SUPREME COURT RENDERS FAVORABLE DECISION MAKING IT UNLAWFUL TO RETALIATE AGAINST AN INDIVIDUAL FOR EXERCISING HIS OR HER RIGHTS UNDER THE WORKERS' COMPENSATION ACT

Diaz v. Housing Authority of the City of Stamford, 2001 Conn. LEXIS 513

The Connecticut Supreme Court recently rendered a favorable decision for employers in a case entitled *Diaz v. Housing Authority of the City of Stamford*, 2001 Conn. LEXIS 513. The sole issue on appeal to the Supreme Court was “whether an employer violates Conn. Gen. Stat. § 31-290a of the Workers’ Compensation Act (making it unlawful to retaliate against an individual for exercising his or her rights under the Act) when it discharges an employee solely on the basis that the employee, who claims a continued inability to work, fails to return to work following a compensable injury despite having been cleared to do so by his or her treating physician.”

Here, Ann Diaz (“plaintiff”) sustained a compensable injury to her thumb while working as a housekeeper for the Housing Authority of the City of Stamford (“defendant”). After receiving treatment from a physician, at the defendant’s direction, the physician released the plaintiff to return to light duty. That day, the plaintiff informed the defendant that she would not return to work due to continued pain. After plaintiff failed to return to work, the defendant terminated the plaintiff solely for failing to report to work after being cleared to return to light duty.

The plaintiff’s complaint was dismissed by the workers’ compensation commission and the dismissal was upheld by the Appellate Court. The Supreme Court held that the plaintiff had properly exercised her rights under the Workers’ Compensation Act and “[t]he only question in this case, therefore, is whether the defendant discriminated against the plaintiff because she had ‘otherwise exercised the rights afforded’ her under the act.” Ultimately, the Supreme Court affirmed the decision and held:

We are unable to find any provision of the act that grants a plaintiff the right to disregard the opinion of his or her treating physician—the only medical opinion obtained in the present case—and to decide unilaterally that he or she is unable to return to work. Nothing in the act grants an employee the discretion to make such a medical determination. In the present case, since the plaintiff’s failure to return to work was the sole reason for her discharge, the facts unequivocally demonstrate that the plaintiff has failed to produce any evidence of unlawful discrimination in violation of § 31-290a.