

Human Resources

By Stephanie Ramsey



HR Reality Check: *Yep, the Stories are True!*

HR CASE STUDY #7

Scenario: Clyde Smith owns and operates the Smith Family Funeral Home in a suburban southwestern town. He is well known in the community and provides several part-time positions to a number of local college students. As far as Clyde is concerned, the work environment at his facility is professional and friendly.

This all changed when two of his part-time employees entered his office late one Friday afternoon clearly arguing. He also noted that the mouth of the 19-year-old, Billy, was very red. Sara, his 22-year-old co-worker, was very clearly agitated. Immediately upon entering his office, they both started talking at once to explain their position. As they began talking over each other, Clyde had trouble understanding the details of what had happened. However, one fact was crystal clear; Sara had hit Billy in the mouth.

Apparently the two employees had been dating without Clyde's knowledge. Before he was able to sort out the issue between the two employees, Sara became frustrated and left. Billy remained behind and indicated that he and Sara had been dating for about six months and recently broke up. He informed Sara he started dating another woman. This set Sara off, and she proceeded to punch him in the mouth. Clyde instructed Billy to leave the premises and not

come back until he was contacted.

Shortly after Billy's departure, Clyde received a detailed email from Sara in which she confirmed that she and Billy dated and then split up. She claimed that Billy had been harassing her at work, and she punched him because he had inappropriately touched her. Clyde called Sara immediately and let her know he received her email and not to return to the funeral home until the situation was resolved. She agreed.

Clyde was dismayed at the situation and not certain how to resolve it. He did not have a current employee handbook or any policies in place that addressed this type of issue.



What are the rules? There are no federal or state regulations that specifically apply to employees dating each other. But the Occupational Safety and Health Act (OSHA) establishes a general duty clause, found in Section 5(a)(1), which states that employers are required to provide their employees with a place of employment that "is free from recognizable hazards that are causing or likely to cause death or serious harm to employees." Basically, the nation's courts have interpreted OSHA's general duty clause to mean that an employer has a legal obligation to provide a workplace free of conditions or activities that could be harmful to employees.

Employers are therefore placed in a position that should they become aware of any condition or activity that may lead to harm to an employee, they are obligated to identify a way to minimize the risk.

Did the employer make any mistakes? Unfortunately, Clyde was so surprised by this event that he failed to take several actions. First, the two employees should have been immediately separated in two different locations within the

funeral home. Then Clyde should have spoken to each of them privately before either party left the property. Second, it would have been beneficial to request a written statement from each employee in their own words of the event(s) and with their signature as part of the statement. This avoids any future problems should one or both of the individuals change their story at some point.

Resolution of the issue: Clyde reached out to an HR professional. He was advised to document in writing all the events and have private conversations with each party, which should also be documented. Clyde did have follow-up conversations with each employee over the weekend. These conversations resulted in Billy admitting that he had touched Sara inappropriately and had done so previously while she was trying to work at the funeral home. However, Sara never approached Clyde with her concerns because she perceived it had been inappropriate for her to date Billy as she was the older party. He learned she had been seeking another position. Upon admitting to Clyde his inappropriate behavior, Billy immediately

offered his resignation, which was accepted. Sara made the decision to accept another job. Clyde has kept all the documentation regarding this incident and created an employee handbook that includes a couple of key policies on harassment and prohibiting employees dating each other.

Preventive measures: In the end, Clyde had a lucky escape with this particular issue. It could have turned out much worse. This is a good example of the benefits of having a formal employee handbook. First, Sara may have had a better understanding of how to approach Clyde when the problem started. Second, the relationship between Sara and Billy may have never moved forward if there was a written policy that prohibited office romantic relations. If they had pursued the relationship in violation of the policy, then Clyde would have had grounds to terminate each of them. •

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