

Can An Employee Be Terminated for Being Too “Tempting”?

by DonaldScarinci@yahoo.com

An Iowa appeals court recently considered an interesting twist on an [unlawful discrimination claim](#)—whether an employee may be lawfully terminated simply because the boss (and his spouse) view the employee as too “tempting.”

The plaintiff, Melissa Nelson, had worked as a dental assistant for Dr. James Knight for over ten years before she was terminated. Both sides agreed that Nelson had not engaged in flirtatious conduct with her boss. However, on several occasions, Dr. Knight complained to Nelson that her clothing was too tight and revealing and “distracting.” During the last six months or so of Nelson’s employment, Dr. Knight and Nelson started texting each other on both work and personal matters outside the workplace. While Dr. Knight sent several “questionable” texts, Nelson never responded.

As detailed in the [opinion](#), the texting relationship, coupled with the Nelson’s clothing, prompted Jeanne Knight to insist that her husband terminate Nelson’s employment. He complied with her request and fired Nelson. He explained that the “relationship had become a detriment to Dr. Knight’s family.” Knight later told Nelson’s husband that “nothing was going on but that he feared he would try to have an affair with her down the road if he did not fire her.”

Nelson subsequently filed a sexual discrimination lawsuit. She did not allege that her [employer committed sexual harassment](#). Rather, she contended that Dr. Knight terminated her because of her gender and would not have terminated her if she was male.

Although Iowa law makes it generally unlawful to discharge or otherwise discriminate against an employee because of the employee’s sex, the Supreme Court of Iowa ultimately concluded that gender was not the motivating factor behind the termination. It agreed with the lower court that the nature of the relationship between Nelson and Dr. Knight and the perceived threat to Knight’s marriage were the cause. Thus, the conduct did not amount to unlawful discrimination.

While it may be difficult to fault the court’s interpretation of the law, the practical implications of the case are a bit concerning. Will employers now being able to justify an otherwise unwarranted termination by claiming, “My spouse is jealous that I may be attracted to you?”