**KNOW YOUR LEGAL RIGHTS**

**How do I know if I am the victim of employee discrimination?**

By Atty. Rebecca Salawdeh

Your job is important. It is the source of your income and it’s where you spend the majority of your waking hours. It may be part of your identity. For these reasons, you do your best at your job; your accomplishments are a source of pride to you.

Therefore, when problems start at work or you are suddenly terminated, there is a need to understand why this happened. The circumstances may have a significant impact on your economic wellbeing, your reputation, and your own self-esteem. There is a natural desire to question the legality of your employer’s actions.

**Do You Have a Legal Claim?**

In assessing whether you have a legal claim, it is important to keep in mind that not all unfair or unwise actions by employers are illegal actions. An employer may have an unreasonable dislike of purple socks and choose to terminate all employees who come to work wearing purple socks. Is this a fair decision or a smart way to run a business? No. However, that does not make the decision illegal.

The challenge in determining if you have a claim is to assess, fairly, the employer’s reasoning behind his or her actions. This assessment can help you decide if the action was illegal or unfair. If you are unable to articulate what you believe motivated the employer to terminate you, it is going to be very difficult for an attorney to argue your case for you.

**Types of Employer Discrimination**

The Wisconsin Fair Employment Act makes it illegal for employers to discriminate against employees and job applicants on the following bases:

* age (for workers over 40 years old);
* arrest and/or conviction record;
* national origin, race, color, religion, disability; honesty testing;
* marital status, pregnancy, sex, sexual orientation; genetic testing;
* military service; and
* the use or non-use of lawful products.

Employers cannot retaliate against employees for raising complaints or participating in investigations about discrimination they observe or experience.

Employers are prohibited from retaliating against employees for requesting accommodations for disabilities or for requesting qualifying family or medical leave.

Finally, there are additional protections employees may have, such as from retaliation for filing complaints about wage and hour violations or specific protections that exist for health care workers.

**Evidence to Support Your Case**

While employers rarely admit their illegal motives, that does not mean there is no evidence. One common type of evidence is to compare the treatment of other workers in similar positions and how they are evaluated. Are women disciplined more harshly than men? If so, then the employer’s claim that a woman’s disciplinary record supported her termination may be discrimination.

You may also compare how you are treated before and after an event, such as when you disclose your disability, request medical leave, or disclose your sexuality. This may also happen when an immediate supervisor changes how he or she treats you after a company leadership transition.

Document everything in writing so you leave a paper trail. For example, if you have communicated a concern about discrimination, follow that conversation up with an email, summarizing your concerns. If you have shared your need for an accommodation for your disability, put that in writing. As you write such emails, always keep in mind that the email may be evidence in a future legal case. Be sure your communication is professional and polite.

In the end, if you are uncertain if you have a legal claim, talk to an attorney who specializes in employment law. Be prepared to pay a consultation fee for such a meeting. Note: there is a time limit (statute of limitations) for claims so act promptly.

While the attorney’s conclusion may be that there is not a claim, this can still be valuable information to have that will allow you to move past this negative event.

*Rebecca Salawdeh, an attorney with Salawdeh Law Office, LLC, Wauwatosa, has represented workers in disputes with their employers since 1996. She is a member of the State Bar of Wisconsin Lawyer Referral and Information Service, which connects Wisconsin residents with lawyers throughout the state. Learn more at* [wislaw.org](http://www.wislaw.org).