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Jury favors ex-court worker

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Tina Lee's suspension by a clerk of court violated a federal leave act, it says.

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A former employee of the Polk County clerk of court was awarded more than \$165,000 Thursday after a jury decided that the official who fired her violated the Family and Medical Leave Act.

Following three days of testimony and four hours of deliberation, the Polk County jury awarded Tina Lee, 44, \$165,122 in damages after the jury found that former Clerk of Court Lois Leary violated the Family and Medical Leave Act by suspending Lee and later firing her in November 2004 after she was repeatedly absent because of an anxiety disorder.

In an additional verdict form, the jury also requested that state employees receive training on the FMLA, as well as how to handle depression and mental health issues.

In a lawsuit filed in January 2006, attorneys for Lee alleged that she applied for family leave status, which entitles employees a certain amount of time away from work for certain family and medical reasons. Her doctor filled out the paperwork, and it was provided to her employer. Lee took leave with the expectation that she would be reinstated. She was instead suspended and later fired.

Lee sued, arguing not only that Leary, who retired last January, violated the family leave act but also acted in a retaliatory fashion by firing her.

The victory isn't groundbreaking since other cases have made clear that mental health issues must be dealt with like other issues, but does stand out, said Lee's attorney, Paige Fiedler.

"I think this case is striking in that employees of the judicial branch seem to be so uninformed and almost cavalier about their lack of knowledge for this law, especially the judicial branch, for goodness sake."

Assistant Iowa Attorney General Grant Dugdale, who represented the clerk of court, who is a state employee, did not contest whether Lee suffered from a serious health condition, but argued instead that she did not follow protocol in notifying her employer.

That argument was rejected by the jury.

Attorney general spokesman Bob Brammer said the state will appeal the decision to the Iowa Supreme Court, questioning whether the trial should have occurred at all.

An earlier motion for summary judgment was denied by Judge James Richardson. Richardson, who is from the 4th District, was brought from outside to hear the case because Lee is a former employee.

"Certain issues were decided by the court but hopefully on appeal they may fall the other way." Brammer said.

Lee could be reinstated as a possible remedy. She is eligible for liquidated damages, which doubles her award to \$330,000.

Prior to her termination, Lee had worked for the Polk County clerk since she was 17. She hopes to have her old job back, Fiedler said.

"I think it feels really good when this woman with a high school education from the east side of Des Moines, and this is the only job she's ever had, can go to court and take on the state of Iowa," Fiedler said.

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