Impact of Employment-at-will Clause on Employees and Employers

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Abstract
Prior research has discussed the advantages the employment at will clause has on employees. However, less research has touched on the impact the Employment-at-will clause has had on employers. The research question being investigated is how does the at-will clause impact both employees and employers? This paper will review several articles that touch on the Employment-at-will clause by discussing the reasons employers may choose to terminate their employees. This paper will also discuss how race is related to termination, how employees respond to the termination decision, some situations that may call for dismissal of employment, and highlight important points made in some of the literature that was reviewed.

Key Words: Employment; termination; race; dismissal; discrimination; disciplinary actions; Negative and Positive effect; employees; employers.

Introduction
Releasing employees from their work duties without a practical reason is becoming very common in society today. Some employers have dismissed their employees because the Employment at-will clause states that employers can terminate “employees at any time for any reason or for no reason at all, as long as no agreement existed to prohibit such an action” (Rousseau & Anton, 1988, p. 276). While this may be reasonable to some degree, employers may want to consider informing their employees by giving rational reasons for discharging them from their duties. Nevertheless, employers may choose to terminate employees because the positions the employees occupy, may change over time. Employees may act in a manner that is unacceptable or employees may not contribute to the betterment of an organization. Whatever the case may be, employees and employers must act a in a manner that is ethical and appropriate. Giving employees reasons for termination may result in employees to be understanding of the situation.
Reasons for Termination

The decision of whether to retain an employee or dismiss the employee is not a decision employers should make at the spur of a moment. Employers consider many factors when deciding to terminate an employee. Rousseau and Anton (1988) proposed seven hypotheses of how employers come to the decision of termination. One of these hypotheses is the employee’s “Time on the Job” (Rousseau & Anton, 1988, p.277). A study conducted by Rousseau and Anton confirmed the above hypothesis. Even though time on the job is a logical reason to consider when deciding whether or not to retain an employee, one wonders about the other employees who have only been on the job for a short period of time and are reliable and dependable. Some employees may not have been on the job long enough because they took a leave of absence to take care of a sick parent. Employees may also be absent because they had to travel due to family emergencies. Whatever the case may be, employers should not penalize employees for circumstances and situations they have no control over.

Employees may be terminated for reasons that do not go against an organization’s policies. Lichtenstein and Darrow (2008) gave examples of employees that were terminated from their place of work because they engaged in legal activities that did not go against their company policies (p. 10). Even though every organization reserves the right to dismiss employees for any reason, they may want to exercise good judgment when terminating employees. Co-workers in an organization may feel a sense of loss when they hear another employee is dismissed for posting activity during vacation time or non duty hours. The uncertainty of whether employers accept such behavior may result in co-workers reframing from posting any pictures on the internet even though the pictures are appropriate. The Employment-at-will clause does not support employees in this regard because employers may consider employees actions as inappropriate and dismiss them for misconduct without breaking any state or federal law.

Rousseau and Anton (1988) also noted that employers consider if a termination is fair based on how much the employee has contributed to the organization and if the reason that individual is being let go is justifiable (p. 274). It is mindful to consider, before terminating an employee, if that employee has contributed to the success of an organization. Nonetheless, if employers decide to retain employees with misconduct records, those employees could cause more problems in the future. On the other hand, if employers do not take corrective actions, employees may report other co-workers if the offense is illegal. Rousseau and Anton (1988) made reference to a source which states that, “…when issues arise regarding an action’s morality or fairness, informed observers constitute a valuable source of advice for the parties involved” (Bok, 1978; Cavanagh,1984, p. 274). Discharging employees from their duties based on behavior that is inappropriate regardless of how long such employees have been on the job, may be considered justifiable by employers.

Furthermore, Rousseau and Anton (1988) posit that management considers a termination decision is fair if the person(s) being terminated is informed adequately (p.275). In spite of the terms in the Employment-At-Will clause, management may be acting ethically and fairly if they provide the employees they are terminating with reasons they are letting them go. The Employment-At-Will clause does impact employees in that it prevent employers from giving them reasons of why they are being released from their duties. Rousseau and Anton also states that providing employees with “reasons that are perceived as legitimate can be an effective means of managing ‘bad news’” (p.275). Even though the termination process is not comforting, some people may feel at ease if they know that the reason their employers are letting them go is due to financial inexorableness or hi-tech changes. Rousseau and Anton (1988) made reference
to a source that connotes that “managerial actions which would otherwise be perceived as unjust can be presented in such a way that people would believed the actions are, in fact, just and fair” (p. 275).

Race and Termination

An employee’s time on the job and how they can contribute to the betterment of an organization is not the only factor employers consider when deciding if they should terminate employees or not. Hargis et al., (2006) hypothesized that “Race will be related to termination. Specifically, African-American employees…” (p. 591). Even though the United States is a nation in which people from different nations live, there is still a deficit of people from different nationalities that “have equal opportunity to contribute to organizational success” (p.588). For these reasons, some employers choose to terminate minorities, especially African Americans for unjust reasons. The terms in the Employment-At-Will clause suggest that employers cannot terminate employers for reason that goes against a federal law (Rousseau and Anton, 1988). In such cases the At-Will-Employment clause does have positive impacts on employees even though employers do go around it sometimes. Hargis et al., (2006) made reference to a source that points out that African Americans are rated less favorably than Caucasians in the work place due to beliefs the rater has about African Americans (p. 589). Even though an African-American in an organization is hard working and dependable, he or she may be rated unfavorable because the rater has chauvinistic feelings about African Americans.

Hargis et al., (2006) also hypothesized that “Termination will be robustly tied to level of education…” (p. 591). With the stigma associated with minority groups, such groups of people are unable to secure a reliable job due to their access to education. The study conducted by Hargis et al., proved their second hypothesis that employers terminate employees based on educational level. Hargis et al., (2006) also made reference to a source that suggested that educational level increases the worth of employees to employers (p. 591). With this education comes the ability to provide for one’s self after termination. Some of the factors employers consider when deciding if they should employ a person is that person’s educational experiences. This is consideration for degrees. Nevertheless, there are some people that do not have formal educational experiences due to their various backgrounds. Maxwell and D’Amico (2001) asserted that “human capital and labor market institutions help set the reservation wage and hence, determine unemployment following displacement” (p. 374). So, even though employees are terminated for reasons relating to educational level, the likelihood of such employees to secure another job would not be likely. In spite of the limitation people without formal education may have, people are sometimes equally able to perform tasks that someone with a formal education may be able to perform. After all, most employers train some of the people they hire on what they want those people to do and not entirely what those people studied in college.

Responding to the Termination decision

Respecting employees during the termination process may contribute to how employees respond to the termination decision. Wood and Karau (2008) made reference to a source in their article by Kant (1785) which states that people should respect others as if they are respecting civilization (p. 521). Showing respect for the people that are being terminated suggest that the employers may appreciate the work those employees engaged in while they were working with
the company; also such employees’ work may be appreciated somewhere else. Having respect for employees also suggest that employers may need to terminate employees for reasons that may benefit the employees, for instance, discharging employees from their duties because they are late to work due to taking care of a sick child. By dismissing such employees, employers may be giving the employees the opportunity to spend time with their sick child. In this instance, the Employment-At-Will clause will favor both parties because employers will be providing rationale reason for the dismissal.

While speaking of respecting employees during the termination process, it is important to note that employers may need to be empathetic as well. Wood and Karau (2008) noted that having empathy for terminated employees may be seen as understanding the employees’ situation (p. 521). When the decisions to terminate employees have been made, it does not necessarily mean that feelings of empathy should be absent. Even though employees may have acted in ways that are unacceptable, employers still need to be understanding of the situation. An example of this is dismissing an employee from work because the employee hit someone in a moment of rage. Even this situation requires understating to some degree due to the emotional feelings attach, it still does not excuse the inappropriate behavior. There may be a need to investigate the cause. Connell and Castro (2009) expounded that in a situation where misunderstanding arises; it is the responsibility of the employers to explore the issue by asking relevant witnesses such as, co-workers about the state of affairs (p. 31). As stated by Wood and Karau (2008) “empathy does not mean adopting other emotions as one’s own…” 9p. 521). The Employment-At-Will clause will benefit employers in the above situation because it gives employers reasonable grounds to dismiss an employee.

**Situation that calls for Termination**

Additionally, there might be situations were employers may decide to discharge employees because the employees may not be suited for the job. Gullett and Greenwade (1988) noted that, “there are occasions in which an employee does not fit in with the work group…” (p. 376). In such situations, employers may decide to discharge employees from their duties because of the ‘poor fit.’ Some people may ask the question: how do you know if an employee is a poor fit for an organization? Employers can determine this by evaluating the work of the employees and those employees’ interactions with their co-workers and customers. At first, employers and employees may see the ‘fit’ as a good one, however, both parties priority may change regarding the position the employees’ are occupying. In such situations, the terms on the Employment-At-Will clause will have a positive effect on employees because it will support employers for not terminating employees for reasons that goes against federal laws. Employers can defend themselves by providing proof of why they dismissed some of their employees on documentation made by the employers. Gullett and Greenwade (1988) mention that “when there is a ‘poor fit’ between the company and the employee and when no transfer can be arranged, it may be in the firm’s best interest to terminate the individual without going through a largely inapplicable appraisal …” (p. 376).

Gullett and Greenwade (1988), further mention that employers who choose to terminate employees for reasons that are equitable should document disciplinary actions taken (p. 375). When leading people, leaders must be careful not to play favoritism on the people they lead. Playing favoritism can be seen as an act of discrimination because it shows that some people are favored more than others. In such situation, employees will be impacted negatively by the Employment-AT-Will clause because they will be discriminating against other employees. If an
employee is guilty of inappropriate behavior that goes against a company policies and procedures, it is the responsibility of the managers to take disciplinary actions. Proper documentation must be recorded. By doing this, “employers will be consistent in their treatment of all employees” (Gulletta & Greenwade, 1988, p. 375).

Taking corrective actions towards employees that have misbehaved, not only shows that leaders and managers are keeping to the terms in their organizational policy and procedure manual, but at the same time, show signs of caring and kindness. Avraam et al., (2004) points out that with the exception of mass layoffs, “…employers are not required to provide employees with any advance notice of a termination of employment… (p. 225). In such instance, employers may communicate the At-Will clause to the employees and inform them of how they are not required to do so (Tomlinson and Bockanic, 2009, p. 82). Even though the Employment-At-Will clause states otherwise, it will be considerate and thoughtful if employers give employees that have misbehaved a written warning indicating that there is need for improvement.

Important points Highlighted

Hargis et al., (2006) point out that employees are not only terminated based on physical appearance but their educational experiences as well. It is important to note this because some people may feel there is no need to obtain a formal education with financial stability. While money is not the sole issue, knowledge acquired in the academic classroom will enable people to better relate to those they work with. Hargis et al., (2006) noted that “education contribute to employees’ skills and working capabilities” (p. 591). Hargis et al., (2006) also noted that research related to merit-based promotions has shown that race affects African Americans ability to advance in their place of work (p. 589). It is important for Hargis et al., to note this because most African Americans are being terminated from their work place. The reasons given by their employers are not race related even though this may be the case. Even if the reason for termination is race related it will be difficult to prove because it is something that is generated in the mind and not always apparent in one’s behavior.

Furthermore, it is thoughtful of Hargis et al., (2006) to conduct their study using participants that work in a large hotel chain. Most minorities in the United States work in places like hotels. These locations will be a good place to collect a sample that is representative of the population because it has people from different nationality. These groups of people are more likely to feel when they are discriminated against. This is based on how their manager treats them and comparing it with the way they interact with citizens of the United States.

In addition, the article by Gullet and Greenwade (1988) also touched on some important issues that are neglected in society. The theme of their article is that individuals are being terminated for reasons that are not their fault. Gullett and Greenwade concluded their article by positing that, “a no-fault discharge law would eliminate much of the ambiguity regarding the employers’ right to fire and the employee’s right to a job. It would clearly be an additional piece of social legislation” (1988, p.378).

In addition, Wood and Karau (2008) noted that it is important for employers to respect their employees. This is important because some employees may see a termination process as someone telling them they have no potential. It may be easier to inform an employee that their effort may be needed in other organizations that may not be affiliated with their current employer. Wood and Karau (2008) made reference to a source by Bayer (2005) who noted that
when employers decide to release employees from their duties, those employees may influence others who may have an effect on the organization’s image (p. 520).

Future Direction and Conclusion

Future studies and research should focus on the impacts the Employment- at-will clause had on employers. It is difficult to note the negative impact the employment at will clause can have on employees and employers but there is also a positive impact as well. Future studies should also investigate if employers are considerate of the termination decision when it comes to terminate employees. Investigating how employees may feel about the termination decision after they have been told why they are being dismissed is also worth exploring.

The Employment-at-will clause has a negative and positive impact on both employees and employers. It can have a negative impact on employers if employers play favoritism towards their employers and fail to react in situations where a disciplinary action is needed. This clause may have a positive impact on employers if they choose not to inform their employees before terminating them provided no written document has been signed to this effect. Employees may be negatively impacted if their employers choose to let them go without reasonable cause. In such situations, employers may simply say the terms on the Employment-At-Will clause do not require them to give employees reason for terminating them.

Furthermore, employees may be impacted positively if their employers terminated them for reasons that go against a federal law, such as race. In such situations, employees may sue their employers. Showing respect and being understanding to the employees that are being terminated may also impact how the employees view their employers. Employers may dismiss employees even though the employees have contributed to the betterment of their companies. Rousseau and Anton (1988) pointed out that “perceived fairness is expected to be influenced by assessments of employee contributions, actions taken at termination, and related concepts of justice” (p.275).

References


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