

Employment Rule Book's Silence Does Not Overcome Presumption Of At-Will Employment

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Illinois state outline

The concept of at-will employment remains alive and well in Illinois, at least as expressed by the U.S. Court of Appeals for the Seventh Circuit. In a recent ruling in favor of a municipal employer, the Court of Appeals examined the extent to which an employment rule book could alter the at-will employment relationship into one in which the employee could have a right to continued employment absent "cause" for discipline or termination.

In [Cromwell v. City of Mومence](#), the Appellate Court rejected the argument by a police lieutenant plaintiff that he had a constitutionally protected property interest in continued employment with the city under the Police Department Rules and Regulations. The rules and regulations provided that probationary employees could be fired at any time for any reason, but did not contain any similar language for non-probationary employees. The plaintiff argued that the omission of such language meant that he, as an employee who was past the probationary period, had a contractual right to continued employment unless there was cause for termination.

In upholding the lower court's dismissal of the case for failure to state a claim, the Appellate Court examined Illinois precedent and determined that "something more than inference from silence is required" to overcome the presumption of at-will employment. Thus, because the plaintiff lacked a property interest in continued employment absent cause for termination, he did not have a property interest in his job and the Due Process Clause of the Constitution was not implicated in the city council's decision to terminate his employment.

Of interest to both public and private employers, the Appellate Court looked at the issue of disclaimers, which routinely are included in employee handbooks to prevent employees from claiming they were promised continued employment. The plaintiff argued that the Police Department rules and regulations contained no disclaimer to negate rights that purportedly were created in the manual. But the Appellate Court rejected that argument, noting "no disclaimer is needed where no promises are made." Since the rules and regulations made no clear promises, the city did not need to include a disclaimer, according to the Court.

Of course, to err on the safe side, employers should continue to include prominent disclaimers in employee handbooks, policy manuals, and rules and regulations to ensure employees are clear that there are no promises of continued employment or "just cause" standards for terminations.

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