

New Jersey Court Says Employee Discharged for Discipline Not Entitled to Payment for Accrued PTO

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On February 22, 2023, the Superior Court of New Jersey Appellate Division ruled that a hospital employee discharged for disciplinary reasons was not entitled to payment of accrued paid time off (PTO) because the hospital had an express policy that PTO would not be paid out after a disciplinary discharge.

In an unpublished per curiam decision in *HMH Hospitals Corp. v. Warren*, the appellate court found that the employee was not entitled to payment for any PTO accrued prior to discharge—even before the company’s PTO policy was put into place—because accrued PTO does not constitute wages under a state law and did not have to be paid out in the first place, except as provided by an employer’s PTO policy.

The decision overturned a lower court ruling that had awarded the employee payment for the PTO hours accrued on the date of the employee’s discharge. The lower court had held the company’s policy denying payment for accrued PTO hours was void because it found that accrued PTO constituted wages under the New Jersey Wage Payment Law and that there was therefore a statutory obligation to pay out PTO hours upon discharge.

The hospital employee, a certified nurse’s assistant, had sought payment for PTO hours she accrued under the hospital’s “Time Off with Pay: PTO” policy over three years of employment prior to being discharged in October 2019 for disciplinary reasons based on admitted misconduct. In April 2019, months prior to the discharge, the hospital instituted a policy where it expressly declared “PTO ... will not be paid to a team member whose employment is terminated in connection with a disciplinary action.”

A referee in proceedings under the New Jersey Department of Labor and Workforce Development (DOL) initially awarded the employee payment for PTO accrued before the policy was in place, but denied payment for any PTO accrued after. A New Jersey trial court then found that the PTO policy violated the New Jersey Wage Payment Law and held the employee was entitled to payment for all accrued PTO.

However, the appellate division said that ruling was incorrect. The appellate court held that the hospital's "PTO policy set the terms for [the employee's] entitlement to pay for accrued PTO hours, and, under the policy's express terms, she was not entitled to compensation." Specifically, the appellate court stated "the accrued hours constituted a benefit entitling [the employee] to payment at a point in the future but not as 'direct monetary compensation for labor or services rendered'" and that the hospital was "not required to offer, pay, or provide PTO in the first instance."

Key Takeaways

The New Jersey appellate court ruling highlights the importance of using express language in employer PTO policies and in employee handbooks regarding PTO, particularly regarding when employees may be entitled to payment for accrued time. The court held that the employer's express policy denying payment after a disciplinary discharge "set the terms" for when PTO would be paid and thus, the employee was not entitled to payment. The court further noted that since accrued PTO does not constitute wages, nothing in the New Jersey Wage Payment Law "limit[s] the ability" of an employee and an employer "to contract regarding a term of employment that does not violate the law."

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