Human Resources

By Stephanie Ramsey

HR Reality Check

Yep, the Stories are True!

HR CASE STUDY #21

Scenario: Morten Funeral and Cremation Service is a high-volume business on the East Coast. The business is owned by Jim and Jane Morten who took the business over from Jim's dad, Tom Morten, more than 15 years ago. This multigenerational business has served the heavy-populated area for more than 100 years. Jim and Jane have a great team of employees that support them in providing excellent service to the families in their community.

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However, there is one area of concern with their employees that continues to be a rising challenge for them. As the population in the area continues to grow, the roadways have become more congested. The number of incidents in which their employees are involved in car accidents are increasing. There appears to be an alarming trend where their employees are the ones at fault for these accidents. In fact, some of these accidents are clearly situations where the employees are not being diligent in their driving habits, leading to damage of company vehicles that require repair to maintain the high-quality visual appearance of their fleet.

Recently, in a situation where one of their employees (Eric) dented the fender of the hearse when filling the gas tank, Jim became quite frustrated and told Eric that he would have to pay the deductible for the insurance as it was the third time he had been involved in an "at fault" accident. Jim told Eric that the deductible would be taken out of his next paycheck. Upon hearing this, Eric became quite distraught and sought out Jane, informing her that he could not afford to have his paycheck reduced by the amount of the deductible. Jane told Eric that she would investigate the problem but did express to him her concern about the multiple accidents that had occurred while he was behind the wheel of one of the company vehicles. Jane then reached out for some professional guidance on how to address this issue.

What are the rules?

First and foremost, there are very specific rules about what deductions can be taken from an employee's paycheck. For example, an employer is obligated to take the following from an employee's paycheck:

- State and federal taxes.
- Social Security (FICA) contributions.
- Court-ordered wage garnishments or income assignments like child support.

It is also important to note that allowable deductions to employees' paychecks vary by state. However, employees may also ask employers to take out items such as:

- Credit union payments.
- Insurance premiums.
- Pension contributions.
- Contributions to charities.

Generally speaking, an employer may not deduct from an employee's wages the cost of any property damage they have caused. For example, an employer cannot dock an employee for:

- The cost of general wear and tear type damage to property.
- Damage they caused to business property.
- Damages they caused to someone else's property.

If the employer feels that the employee intended to damage the property, the employer may ask the employee's permission to take the cost of the damage out of their pay, or the employer can take the employee to court. The employer can only take the cost of the damages out of the employee's pay if they agree in writing. The employee is not obligated to agree.

An employer may be able to create a fleet policy that states an employee would be responsible for paying part of the deductible for the insurance, but there are several considerations to such a policy.

1. Is it allowable under state law?
2. Would the deduction drop the employee's salary for that time period below minimum wage? If so, then it would violate wage and hour laws.
3. The language would have to clearly state that the employees agree to such a deduction and sign it.
4. Would this impact employee morale?

Did the employer make any mistakes?

In reviewing Jim's actions, it does appear that he spoke without having all the information. Clearly, he cannot dock Eric's paycheck for the insurance deductible without having signed authorization from Eric. This does not exist at this time. Jim's frustration got the best of him in the moment, which is understandable given the frequency of the accidents that are occurring. However, this is not the appropriate solution.

Resolution of the issue

Jim and Jane need to have a conversation with Eric clarifying that there will be no deduction to his paycheck for the deductible. At the same time, a frank conversation needs to occur about the number of accidents that he has personally been involved where he is "at fault." Eric needs to understand that this is now a performance issue as driving the company vehicles is part of his normal job duties and his numerous accidents are a significant concern. He should be given a written warning for this transgression and notified that should he be involved in another "at-fault" accident within the next 12 months that he will be suspended for three days without pay or possibly terminated. Should such an event occur, Jim and Jane must enforce this action.

Jim and Jane should have a similar conversation with every employee who has had an "at-fault" accident so that it is clear that there will be a set protocol followed when these accidents occur.

Preventative measures

Jim and Jane need to modify their employee handbook vehicle policy to include a clear statement about how they will be handling "at-fault" accidents going forward. Communication about the repercussions is absolutely key to controlling this situation. All employees must be treated the same when such an accident takes place. Consistency will produce the long-term improvement in behavior that Jim and Jane seek. Clear policies and enforcement are critical for employees to understand their roles and responsibilities as well as the penalties for adverse actions. •

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