

Human Resources

By Stephanie Ramsey



**HR CASE
STUDY #23**

Yep, the Stories are True!

Scenario: Remember Sally and Steve Mooney from HR Case Study #22? They own Weacrematieu Cremation and Funeral Services located in the Southeastern United States. The Mooneys have a thriving business in an area that is experiencing a growth in population as it is very attractive to both new businesses and potential employees. Weacrematieu case volume has been increasing year over year. Long-term employee retention has been a key focus for Sally and Steve, which has led them to develop very attractive benefits and compensation packages.

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As part of their initiatives, they created an employee handbook and specific policies related to various benefits offered to employees. These policies include health, dental, and vision insurance, paid sick leave, vacation leave and a retirement plan. Within the employee handbook, the policies specifically outline how each benefit is provided or where to seek more information. In cases where necessary, the policies also direct employees how to make requests to take advantage of the programs such as sick and vacation leave. These items were initially created three years ago and provided to then existing employees and since then any new employees are provided the same materials that are kept updated as benefits change from time to time.

When last we visited with Sally and Steve, we reviewed the situation of one of their employees, Gavin, and his right to certain employee benefits. The same employee, a licensed funeral director, who had been working for Weacrematieu for just under a year, sent Steve an email on Tuesday, requesting that he be allowed to take a 10-day vacation the following Monday. After reviewing his email, Steve denied his request citing two reasons for the denial: First, the employee handbook clearly stated that a vacation request must be submitted no less than 14 days in advance and his request was less than seven days in advance; and second, because of the short notice and with the heavy call volume expected, the funeral home would be short-handed without him. Therefore, Steve advised him to make vacation plans further in advance which would allow for the funeral home to make appropriate arrangements in Gavin's absence during his vacation. Gavin worked the rest of the week as scheduled.

The following Monday, Gavin did not appear for work. Several hours after leaving him voicemails, Gavin did return Steve's call and informed him that he was on vacation out of state and would not be back into the office until 10 days later. Steve

immediately informed Gavin that he was terminated for violating company policy. Steve and Sally were flabbergasted by Gavin's actions, but their focus was on serving their families. To accomplish this, they were required to hire a removal and embalming service to help cover the staffing shortage caused by Gavin's absence.

When Gavin returned from his vacation, he came to the funeral home as if he and Steve had not had their conversation regarding termination. Steve informed him that he was, in fact, terminated and provided him his final paycheck. Gavin was very distraught and told Steve he was going to sue him for wrongful termination for taking a vacation. Out of an abundance of caution, Sally thought she should check with a professional to make sure that they had handled Gavin's situation appropriately.

What are the rules?

There are no federal or state laws that require employers to provide vacation leave to their employees. However, if they do provide vacation leave, they should follow the vacation leave policy as described and provided to their employees. Many employers do provide vacation leave as part of their compensation packages to attract and retain staff.

Because there are no federal or state laws, when employers do provide these benefits, they have the luxury of structuring them in a variety of ways and setting policies that suit their business. In this case, the Mooney's determined that for their business, they needed at least 14 days advanced notice from employees that wanted to take vacation for them to plan for appropriate staffing. Additionally, they established guidelines of how many paid vacation days employees were qualified to receive based upon seniority and how many days employees could carry forward to the next calendar year.

Did employer make any mistakes?

In hindsight, Steve would have been well served to speak directly

with Gavin upon receipt of his initial email requesting the 10 vacation days. This would have given Steve an opportunity to make sure that Gavin had received his email denying his request for vacation as well as clarification on how the policy worked and why it was important for the business to have 14 days advance notice.

Resolution of the issue

Steve was within his rights to terminate Gavin for failing to follow the policies outlined in the employee handbook. Steve and Sally also required each employee to sign and return a signature page acknowledging receipt of the employee handbook and accepting responsibility for reading and adhering to all the policies contained within the handbook. This acknowledgment was on file for Gavin. Steve and Sally decided that they were willing to defend a case if Gavin did file a suit for wrongful termination.

Preventive measures

Ongoing training with employees every year to make sure that they do understand benefits such as vacation and sick policies is important not only in avoiding confusion but reinforcing to employees the value of the compensation packages that the business is providing to them. This is especially critical in a highly competitive employment market. Annually updating employee handbooks and policies to make sure that they are current with the changing needs of the business is also imperative as employers do not want to find themselves on the short end of a situation as the one described here.

If you are not certain that your employee handbook or policies reflect your business needs, take the time to have them reviewed by a professional consultant. Should you not have these type of foundation HR documents, consider changing that fact as soon as possible. A lack of policies is not likely to work in your favor when you are faced with an employee who wants to sue you for a perceived wrong. •