



Racially hostile work environment created by co-worker singing

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Debates over the lyrics contained in rap and hip hop songs have been featured heavily in the news in the past year. It seems like everyone has an opinion about what should or shouldn't be said in a rap song. Think that the contents of rap songs don't affect you as an employer? Think again.

Here's the situation

An employee comes to you complaining that a co-worker is singing offensive song lyrics at work. Specifically, the employee tells you that his colleague is bringing a boom box and playing these songs aloud in the working area. According to the complaining employee, the lyrics are racially offensive and contain the "N" word. The employee tells you that he is personally offended by the song lyrics and wants you to make it stop. If your tendency would be to ignore the employee's complaint and allow the music to continue to be played and sung, then you and your hotel might be liable for creating a racially hostile working environment.



In a recent case filed in the Northern District of California by the Equal Employment Opportunity Commission on behalf of an individual complainant, the EEOC has taken the position that an employer engaged in racial harassment and retaliation when it ignored the complainant's objections to racially offensive rap songs. According to the complaint filed by the EEOC, the complainant, who is an African-American, complained to his supervisor about his co-worker playing and singing rap songs that used the "N" word along with other racially offensive language.

Initially, the supervisor ignored the complainant's objections and the co-worker continued to play and sing the offensive rap songs. A few months later, the complainant went to upper management and again complained about the co-worker. Upper management eventually issued a rule barring employees from playing racially offensive songs in the workplace. A short time after the complaint to upper management, the complainant's supervisor changed the complainant's start time. This change interfered with the complainant's ability to care for his ill father. The complainant was laid off shortly after the schedule change and has not been recalled. The employer never disciplined the co-worker who was playing and singing the offensive songs.

The lawsuit

In its complaint, the EEOC claims that the employer subjected the complainant to a racially hostile work environment by not stopping the co-worker from playing and singing racially offensive songs promptly. The EEOC also claims that the employer retaliated against the complainant when it changed his schedule and when it laid him off. The EEOC's complaint asks for reinstatement, compensation for monetary loss, compensation for pain and suffering, and punitive damages against the employer for "malicious and reckless conduct" in violation of Title VII. While the suit is currently in its initial stages, the fact that the EEOC has brought the case on behalf of the complainant indicates that the EEOC thinks that a hostile work environment can be created by an employee singing offensive lyrics or by offensive songs being played in the workplace.

Bottom line for hotel managers

While this California case will not necessarily be binding in other states, this case illustrates a problem that is being faced by employers throughout the country. Hotel managers would be well served to remember that ignoring complaints from employees about working conditions could be detrimental in later litigation. If an employee comes to you and complains about being harassed

because of race, gender, religion, national origin, etc., you MUST take steps to investigate the allegations, else you may find yourself defending against a legal claim.

Just because a manager might initially think that the complaint is silly or frivolous does not mean that the EEOC would necessarily agree. Had the employer discussed above simply investigated the situation promptly and forbade the co-worker from playing or singing offensive songs, the employer likely could have avoided a harassment lawsuit. By ignoring the complaint and waiting to take action to remedy the problem, the employer created potential liability for itself.

Don't go down the same path that the employer did in this case. The only thing frivolous about this above cited legal case is that the employer failed to take appropriate action. Take all harassment and discrimination claims seriously, investigate immediately, and respond appropriately. ✧

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