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CAN AN EMPLOYER FIRE AN EMPLOYEE DURING THE PANDEMIC?

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I was presented with the following scenario: The employee has to remain quarantined because a family member, with whom the employee resides, had contact with someone who has been positively diagnosed with Covid-19 (Coronavirus). The employee believes that she needs to go to work because she will get fired. Can the employer fire the employee?

Generally, absent an employment agreement stating otherwise, an employer has the right to terminate an employee (not an independent contractor) “at will”: without notice and without cause. In most states, including Florida, an employer does not have to provide a reason for its decision to terminate its employee nor provide notice. *Wynne v. Ludman Corp.*, 79 So. 2d 690, 691 (Fla. 1955). However, there are some exceptions; therefore, the employer should exercise discretion when deciding to terminate the employee. The termination cannot be based upon discriminatory reasons nor should it violate any federal or state laws.

For the scenario described above, the employer should consider the following: whether the employee has sick leave days available; does the employee manual, if applicable, allow for unpaid sick leave for a specified period of time; and can the employee take advantage of the family medical leave act. In other words, the employer should be proactive and not reactive when considering the termination of an employee in an effort to prevent legal actions. The employer should also consider the climate in which the country finds itself. If the other options are not available, the employer should consider extending the time off to the employee with the clear understanding that the employment status will be reexamined on a date certain.

In sum, in most cases you can terminate an employee without notice and without presenting a reason why. However, the employer should be certain that all bases are covered before making that permanent decision that could be resolved with temporary solutions that will benefit the company in the long run.

For more corporate information, feel free to contact attorney **Karen D. Fultz at SheeHe & Associates, P.A. Tampa Office (678) 777-8447.**