

legal rights to fire him. The board found that whistleblowers are legally protected only if they engage in “concerted activity” together with their fellow workers. Because Tuff had acted alone for the most part, he was not protected. However, a NLRB spokesperson said the board made no moral judgment on either the employer’s or the employee’s conduct. The parties’ moral behavior, he said, was not at stake in the NLRB decision.

Questions

1. Was the security guard right to take the action he did? Would you have taken the same action? Why or why not?
2. Is this a case of an unjust dismissal?
3. Should there be a law to protect employees from losing their jobs for this kind of activity?
4. Think of some creative ways other than dismissal to handle this situation.

CASE 2. *A Matter of Principle*

Nancy Smith was hired May 1, 1988, as the associate director of Medical Research at a major pharmaceutical company. The terms of Ms. Smith’s employment were not fixed by contract, and as a result she is considered to be an “at-will” employee. Two years later Ms. Smith was promoted to Director of Medical Research Therapeutics, a section that studied nonreproductive drugs.

One of the company’s research projects involved the development of loperamide—a liquid treatment for acute and chronic diarrhea to be used by infants, children, and older persons who were unable to take solid medication. The formula contained saccharin in an amount that was 44 times higher than that the Food and Drug Administration permitted in 12 ounces of an artificially sweetened soft drink. There are, however, no promulgated standards for the use of saccharin in drugs.

The research project team responsible for the development of loperamide unanimously agreed that because of the high saccharin content, the existing formula loperamide was unsuitable for distribution in the United States (apparently the formula was already being distributed in Europe). The team estimated that

the development of an alternative formula would take at least three months.

The pharmaceutical’s management pressured the team to proceed with the existing formula, and the research project team finally agreed. Nancy Smith maintained her opposition to the high saccharin formula and indicated that the Hippocratic Oath prevented her from giving the formula to old people and children. Nancy Smith was the only medical person on the team, and the grounds for her decision was that saccharin was a possible carcinogen. Therefore Nancy Smith was unable to participate in the clinical testing.

Upon learning that she was unwilling to participate in the clinical testing, the management removed her from the project and gave her a demotion. Her demotion was posted, and she was told that management considered her unpromotable. She was charged specifically with being irresponsible, lacking in good judgment, unproductive, and uncooperative with marketing. Nancy Smith had never been criticized by supervisors before. Nancy Smith resigned because she believed she was being punished for refusing to pursue a task she thought unethical.

This case was prepared by Norman E. Bowie on the basis of the appeal decision in *Pierce v. Ortho Pharmaceutical Corporation*, Superior Court of New Jersey, 1979.