

AVOIDING WORKPLACE VIOLENCE

QUESTION: This afternoon at work, two employees got into a fist fight - right in the middle of our employee lounge. I'm the supervisor and I know I should've known what to do, but I confess that I just froze and watched in morbid fascination along with all of the other employees. After the two men yelled and swung at each other for a couple of minutes, several other employees started saying "Break it up! Come on guys, let's cool off..." and other things in an effort to diffuse the scuffle. The energy in the employee lounge was unnerving.

The two gradually threw fewer punches at each other, and after they both seemed completely out of breath, one of them simply charged out of the lounge and headed out of the office.

I thought we could all use a break, so I just closed the shop and told everyone to go home, relax, and come in ready to work in the morning. But later, a friend told me that the law required me to stop the fighting by whatever means possible, including physically getting between them if necessary.

Is that true? Do I have a legal obligation to actually use physical force, if necessary, to stop a workplace altercation?

ANSWER: No, you definitely did the right thing by not jumping in the middle of the brawl. Violent altercations are unpredictable, and one of the participants may have drawn a knife, gun, or other weapon. Even without a weapon you may have been seriously injured had you tried to break up the fight by getting physically involved. The much safer and more productive reaction would have been to call 9-1-1. In addition, unless you had reason to know that an incident like this might be imminent, you did not have a supervisory obligation to "predict" and then to prevent the fight.

That said, you do have a general duty to take reasonable steps to keep the workplace safe for employees. According to the Oregon Safety and Health Administration (OSHA), employers have a duty to provide employees with employment that is free from recognized hazards that are causing (or are likely to cause) death or serious physical harm to employees. The OSHA regulations state, in pertinent part:

(a) Each employer --

(1) shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees;

(2) shall comply with occupational safety and health standards promulgated under this Act.

(b) Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct.
29 U.S.C. 654(a)(1).

For more specific information about these standards, see

<http://www.cdc.gov/niosh/injury/traumaviolence.html>

Prudent employers should consider providing training to prepare supervisors and employees for possible violent incidents in the workplace. Training and action plans are essential in workplaces where violence is more likely, such as places where money is exchanged, employees work alone and/or at odd hours, the workplace is located in a high-crime area or the work premises displays or stores valuables.

Training topics may include:

- Awareness of factors that could lead to violence in the workplace, such as inherently dangerous situations and/or threats by co-workers or members of the public;
- Prevention of violence, such as training on techniques to diffuse emotionally charged situations; and
- Responding appropriately to incidents of violence, including emergency medical care and instructions for notifying law enforcement or conducting an investigation of the incident.

For more information on this and other important information for Oregon employers, including seminars conducted by BOLI's Technical Assistance Unit, please visit our website at www.oregon.gov/boli/ta. You can also call us 971-673-0824.