

Nearing Age 50 Or Retirement? Watch Out For Age Discrimination

November 7 2007

The threat of age discrimination against American workers seems to peak about age 50 and then again when workers near retirement age, according to a new study of validated discrimination claims.

The first spike of age discrimination claims seems to hit just when workers are entering their prime earning years and their salaries are increasing the most, said Vincent Roscigno, co-author of the study and professor of sociology at Ohio State University. The other spike comes when workers are just about ready to retire and may be eligible for pensions.

In both cases, businesses often claimed cost savings – and not discrimination – was the reason behind laying off or firing the workers, despite evidence to the contrary.

“Age discrimination is the unspoken discrimination in our culture,” Roscigno said. “There is this sense that it is legitimate to discriminate against older people in a way that is not legitimate to discriminate on the basis of race and gender.”

The results are particularly striking because of the unique data set used by the researchers.

Sociologists examined 2,181 age discrimination claims made in Ohio in which a neutral investigator determined there was probable cause that discrimination did occur, or in which the case was settled by the

company prior to any litigation.

“As far as we know, this is the first study that examines actual cases of discrimination, as opposed to perceived discrimination reported in surveys,” Roscigno said. “This gives us a clearer picture of how age discrimination really occurs in the workplace.”

The study appears in the current issue of the journal *Social Forces*.

The cases examined were among those filed with Ohio's Civil Rights Commission from 1988 through 2003. In addition to analyzing the data from those cases, the researchers also conducted in-depth analyses of a random subsample of 120 cases. The researchers examined the entire files, which ranged from 20 to 120 pages each, and included statements from the employees and the employers about what happened.

The results showed that skilled and semi-skilled workers – those working in manufacturing, construction and related jobs – were the most vulnerable to age discrimination.

“A big part of the reason may be that these workers are employed by companies feeling pressure from global competition, and these employers are looking for ways to hold down wages and benefits,” Roscigno said.

“The decline in unions is an invisible part of this story because their declining influence and power are giving employers the leverage they need to introduce cost savings and cut out older workers.”

Indeed, firings were the most common form of age discrimination, involving two-thirds of all complaints filed in Ohio. On-the-job harassment was the second most common complaint, reported by 12 percent, followed by hiring practices, reported by 10 percent.

Roscigno said the in-depth examination of the 120 cases provided insight into how the process of age discrimination actually unfolds for many people.

One of the most startling findings was how blatant some companies were in discriminating against older workers, he said.

In one case, a former manager testified that he was pressured by upper management to “get rid of those old men” at his retail store.

“It was amazing how explicit the discrimination was – sometimes there was absolutely no attempt to hide what they were doing,” Roscigno said.

“Often, employers used broad stereotypes of older workers as being less dependable or forgetful, even though their work records and evaluations gave no indication of that. This suggests there was really something else going on and the reported problems were used just as an excuse to push out employees who were seen as an economic liability, because they had a pension coming or the employer began to worry that their health care costs would go up.”

While businesses may have legitimate reasons to trim staff or look for cost savings, it is not legal to apply these cuts only to older workers, Roscigno said. Also, while there may be legitimate reasons to deny a person a job if he or she is physically or mentally unable to perform the duties, that has to be established using objective criteria and determined on an individual basis.

But this study showed that many employers didn't evaluate whether the individual employee could do the job – they just assumed the person was too old to perform adequately, he said.

For example, in one case a 64-year-old director of finance was

discharged after being told she was too old and un-trainable for computer school.

The fact that this study included only cases in which probable cause for discrimination was found, or in which the company settled, suggests these employees really were not given the opportunity to prove they could do the job, according to Roscigno.

“If an employer can prove that an individual employee cannot handle the physical or mental parts of a job, then there is nothing for the company to fear. If they can't, then they are just using age as an excuse.”

In the cases in this study, employers were likely relying on stereotypes about older workers – stereotypes that are often plainly wrong, he said.

“We know from other studies that older workers are actually more dependable, less likely to call in sick, and just as willing to take on new jobs tasks as are younger workers. But they have to be given an opportunity.”

Other co-authors on the study were Sherry Mong and Reginald Byron, sociology graduate students at Ohio State, and Griff Tester, a PhD graduate of Ohio State and now an assistant professor at Georgia State University.

Source: Ohio State University

Citation: Nearing Age 50 Or Retirement? Watch Out For Age Discrimination (2007, November 7) retrieved 20 April 2024 from <https://phys.org/news/2007-11-nearing-age-discrimination.html>

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