

Hypothetical #2

THE STORY HR GETS:

Joe is the IT Manager for your Kauai sales operations and you just learned he has been missing work on and off for several months. Joe called in sick four days ago but was seen at the Gym lifting weights. Joe is known to compete in body building competitions. The Kauai Operations manager is complaining that he is never available to fix the POS system when needed and wants to fire him.

Joe had previously taken a stress leave which he filed for workers comp. Your carrier denied the claim but it is still pending.

Joe is currently off work.

You send Joe FMLA paperwork advising that he is eligible for leave but must submit FMLA certification within 15 days.

Joe doesn't return to work for three weeks. He doesn't bring the certification forms but has a doctor's release authorizing his return to work.

Do you fire Joe when he returns?

What facts do you need to know before you fire him?

JOE'S STORY:

Joe feels the Kauai Operations manager has been picking on him since he filed for work comp. The harassment is getting worse as he send Joe to the four corners of Kauai every day for minor things that can be handled by phone.

Joe needed a break and went to his naturopath for a consultation. His naturopath prescribed medical marijuana for him but told him he need not tell his employer he has that prescription because it is legal. Joe has felt better since smoking a few joints daily and is ready to return to work and deal with his boss. His naturopath told him he could do anything he normally does but should stay away from work for two weeks.

He doesn't remember getting any FMLA paperwork or maybe misplaced it. Joe can get his naturopath to sign anything for him as they were high school classmates. Joe needs to get back to work as his rent is due in a week.

What do you tell HR to get the most protection for your absences?