

# Am I Being Discriminated Against Because Of My Pregnancy?

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**Dear Ask the Attorney:**

I recently read your blog on the new Pregnancy Fairness Act, and I was wondering if I have a case against my employer. Recently, I told my employer that I was a few months pregnant. He made a derogatory comment under his breath about the fact that he hates having to hire women because they always do this to him (i.e. get pregnant). Anyway, since I told him about it, he has been treating me very poorly, yelling at me constantly, being incredibly nit-picky where he never was before, and just causing me severe amounts of stress. I go home and cry every night. Is this considered discrimination against me?

**New Mommy**

Dear New Mommy:

Your time as an expecting mother is an exciting time for you and your family. Unfortunately, it appears that you may be faced with discrimination in what should be a time of happiness and anticipation. Based on the limited facts you have provided, you may have a claim against your employer under the New Jersey Law Against Discrimination, Pregnant Workers Fairness Act and federal Pregnancy Discrimination Act. There is a line drawn between discrimination in the ordinary meaning of the word and a legally cognizable claim for pregnancy discrimination.

It is unlawful to harass a woman because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth. Some of the facts in your question may be evidence of such unlawful conduct. Furthermore, your employer must provide reasonable accommodations under both Acts. This

requirement is not unlike any other “disability” as defined by the Law Against Discrimination or American With Disabilities Act.

Many people ask what is a “reasonable accommodation”? The answer varies and is not necessarily straightforward. Generally, reasonable accommodations for expecting mothers include breaks, job modifications, modified work schedules and assistance with manual labor. The Pregnant Workers Fairness Act does not provide for any additional leave. However, under applicable circumstances, employers that employ 50 or more employees must provide twelve (12) weeks of unpaid leave for the employee’s own health and following the birth of a child, provided that the employee has worked for at least 1,250 hours and twelve (12) months during the previous twelve (12) month time period.

As with any claim, you must show damages that are directly related to the conduct of your boss. In other words, you must show that the terms, conditions, benefits or pay has changed. Alternatively, or in addition, you must show that the conduct has result in emotional distress or pain and suffering. Ordinarily, a successful claimant can show this if they have consulted with and been treated by a mental health professional. The conduct you are being subject to, based on your question, may not be healthy for you or your baby. Although it is not necessary for a successful Plaintiff, depending on the size and structure of your employer, his conduct can be reported, allowing any higher level personnel to investigate and discipline your supervisor. This puts your employer on notice of the conduct. Practically, this process will not likely work if your supervisor owns the company.

Pregnancy discrimination should not be tolerated and the law has recognized that discrimination, in all forms, should be absent in the workplace. You should contact an attorney or your local New Division on Civil Rights and/or Equal Employment Opportunity Commission Office.