CAUGHT IN THE ACT: VISITING ILLICIT WEB SITES WHILE ON THE JOB

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This case was prepared by the authors (Johnson and Kaupins) and is intended to be used as a basis for class discussion. The views represented here are those of the case authors and do not necessarily reflect the views of the Society for Case Research. The views are based on professional judgment.

Stephanie Hughes received a phone call from Devin Collins, the Human Resource Manager at DMD Systems. “Stephanie, can you come by my office for a bit, I need to talk to you about Jeremy Phillips. It is important.” Stephanie’s first instinct was to ask Devin what this concerned but she caught herself, realizing that he would have told her what it was about if he thought he should tell her. “Devin, I will be right up” Stephanie responded. As she left her office, Stephanie wondered what this could be about. Jeremy was a good worker and he had never had any disciplinary issues. She went up to Devin’s office and she was shocked and angry when he told her about what Jeremy had been doing instead of his work.

Background

DMD Systems was a non-unionized manufacturer of industrial electronic products. It also owned manufacturing facilities in Europe and Asia. Over 1,000 employees were employed at the facility where Stephanie Hughes worked. The plant had an HR staff of seven employees and was located in a small metropolitan area with a population of approximately 150,000. DMD was an employer-of-choice in the local economy because it provided competitive salaries and benefits and operated in a relatively clean and comfortable environment. This contrasted greatly with other, more labor intensive alternatives such as chemical manufacturers, food processors, and construction environments where workers often had to work under very hot and/or very cold conditions. The firm employed engineers, technicians, maintenance, production, clerical, safety, and custodial personnel as well as other support staff. The firm was formed in the 1960s.

This DMD facility operated in an employment-at-will state. DMD had employment-at-will (EAW) statements included in its application forms that expressly stated that it was an at-will employer, and that other than employees who had a formal written legal employment contract for employment at DMD, employees were at-will and could be discharged at any time, for good cause or no cause, with or without prior notice. All applicants were required to sign the employment application, acknowledging their knowledge of DMD’s EAW policy if they were to be considered for employment. Likewise, all employees were required to sign statements indicating that they had received a copy of the Policies and Procedures Handbook (P&P Handbook), that they had read the handbook, and that they understood that their employment at DMD was at-will. (Some of the details of the P&P Handbook are provided in Appendix A.)
Stephanie had been a supervisor at DMD for less than a year when she received Devin’s phone call. She managed Line Maintenance Stores (LMS) which maintained inventories of office supplies, raw materials and components used in the production of electronic devises. The department also inventoried machine parts for equipment maintenance and backup parts for all lines in case of major line equipment failures. Stephanie had eight subordinates who were non-exempt under the Fair Labor Standards Act, two of which worked the swing and night shifts. The workers had job titles including Storekeeper (A or B) and Inventory Specialist (A and B). The workers performed analyses on a number of inventory variables. Some of their tasks included calculation and recommendation of stock levels for new and existing parts using the minimum/maximum procedure, performance of root-cause analysis on stocked-out parts, maintenance of inventory databases, and initiation of the inventory ordering processes to replenish inventory.

**Stephanie Hughes**

Stephanie was a petite, attractive, 35 year old woman. She was smart, self-confident, conscientious, responsible, persevering, and had a good sense of humor. She was educated, articulate, and presented herself in a very professional manner. She could be tough as nails when she needed to be. Her friends affectionately call her a Chihuahua (a small but fearless dog) because she was small but when faced with confrontation she held her own. Stephanie was a very effective negotiator when dealing with vendors, employees, and in her personal dealings. She was a single mom throughout her 20s and early 30s but had remarried six months before she started work at DMD.

Stephanie had entered college right after high school but quit after a year and worked as a waitress for a few years. She eventually married but that only lasted for a few years. Her husband abandoned her and their infant son. As a single mom, she raised their child without his support. Stephanie and her son moved in with her parents for many years. She believed that the difficult times she experienced over the years helped her build character. She learned to deal with adversity and to work hard to make ends meet.

Stephanie worked a variety of jobs after her divorce. She had worked for a major motel chain, working the front desk and eventually working her way to the position of Event Coordinator. She later obtained a position as manager at clothing store and successfully managed it for six years. Nonetheless, she decided to return to college to earn a degree in business and quit her job to do so. With the support of her parents she was now able to attend college full-time.

Stephanie loved studying business and she earned high grades. Upon graduation, she was hired by a bank as a loan officer. She was very successful at the bank, receiving very favorable performance ratings and good merit pay increases. While at the bank she completed one or two night classes as she now worked toward completing an MBA. Stephanie’s father convinced her to leave the bank and to concentrate on her studies. She decided to take the risk and again returned to school full-time.
Upon completion of her MBA, Stephanie was hired by DMD as the supervisor of LMS. Her self-confidence, professional demeanor, and work experiences won her the job. She was the first supervisor to manage that department. Prior to her hiring, her manager, Tom Hill, had direct responsibility for the department. However, he was responsible for a large unit of the organization which included many departments and employees and he was unable to give LMS much attention. As a result, it operated with little managerial oversight. Stephanie was hired to fill this void.

When Stephanie started working as a supervisor, she was surprised to observe how loose things were. Her workers spent a lot of unnecessary time away from their desks, there were many personal conversations taking place during work time that detracted from the work getting accomplished, and a couple of the employees were regularly on the telephone carrying on personal conversations with friends and family. One of her workers, Tina, was especially “good” at bringing non-departmental technicians into the department. She tended to wear low cut blouses, flaunt her chest, and flirt with the engineers and technicians who visited her (and detracted from the “real” LMS’ work). These non-LMS’ employees had a bad habit of sitting around her department, chatting with Tina and a couple of the other women, Tammy and Lisa, who worked in the department.

Stephanie had never worked in or managed a department that wasted so much time. She also observed similar unproductive work behaviors in other departments of the facility. She found herself wondering how DMD could be profitable with all this wasted time and low productivity. Stephanie figured that if she could turn things around her unit would perform much more efficiently and that could help her advance within the firm.

Stephanie had a strong work ethic and had always worked hard for her employers. She found the situation in her department to be completely unacceptable, and it was against her nature to allow it to continue. She set out on a mission to put an end to the waste. “If I can’t turn things around in LMS and get my workers to earn their paychecks, I can’t stomach working here. The way things are in this department is a joke, a very bad joke!”

At one of the first weekly meetings she had with her manager, Tom Hill, Stephanie shared her observations. Her boss appeared a little embarrassed as Stephanie described the extensiveness of the abuses, but he agreed that things may have been more than a little out of control in her department, largely due to his inability to closely monitor the workers. She and Tom discussed some ideas for her to begin enforcing rules and ending the unproductive and distracting behaviors. He told her that he applauded her for her willingness to take this on, and that of course he would support her efforts to improve work efficiencies in her area. He warned her that there were three workers, Tina, Tammy, and Lisa that were especially challenging. He warned Stephanie that the three women were relatively long-term employees and had family members who worked in the plant. “It won’t be easy for you. There is a great deal of history in this facility and breaking these long-standing practices will be difficult and will take a lot of time and energy. For better or worse, they have had a support system that has been allowed to develop here as a result of our historical paternalistic culture.” Tom continued on, “Stephanie, what you are trying to do will not be easy given the culture and history of this plant. Nonetheless, times are changing and we cannot afford to continue as we have in the past. I will talk to the supervisor of the
technicians and engineers who have been wasting time in LMS to gain his support.” He wished her luck and moved on to other matters.

Stephanie began by meeting with each of her workers to discuss the “nonprofessional” work behaviors that were occurring in the department. Most of her workers seemed to be thrown a bit by what she had to say, but all of them except Tina, Tammy, and Lisa, readily agreed to discontinue the extensive non-work conversations during work time. The three women tried to justify their behaviors. In Stephanie’s separate meetings with each of them, she received the following types of responses: “I don’t spend that much time on the phone or talking with other workers.” “We have always done things this way here.” “This is how everyone works at DMD.” Basically, none of the three were willing to buy into Stephanie’s requests. Stephanie responded by stepping things up a notch. “Here is what I will do. When I see you involved in one of these unproductive behaviors, I will get your attention. I will expect you to discontinue it immediately. If that doesn’t work, we will have a little chat about it. Then, the next time it occurs, I will give you a written warning. If the behavior continues, I will ramp things up a bit, and more and more after that if need be.” From Stephanie’s perspective, Tina, Tammy, and Lisa appeared dumbfounded. “I think they were starting to see the picture and did not like it,” Stephanie shared with her boss at a later time.

Stephanie also talked with the various technicians and engineers who spent too much time hanging around her department. She told them that she had an operation to run and that in the future when they needed inventory, once they received it, they needed to move on. “My employees have work to do. They are not here to socialize.” A couple of the engineers became angry but Stephanie was not going to let that bother her. When anyone grumbled to Tom about the changes she had implemented and her style of management, he would merely tell them that Stephanie was doing what she was hired to do. Stephanie appreciated his support, especially because Tom had had no idea about how bad things really were prior to her becoming supervisor.

Over time, the nonproductive work behaviors discontinued but the change did not occur overnight. Tom was right about the three women because they took a lot of time and effort. Stephanie kept her word and she regularly communicated with the three women. She was required to utilize the firm’s progressive disciplinary system which eventually resulted in both Tammy and Lisa being discharged. With her two cohorts gone, Tina settled into the new way of doing things and behaved well enough to retain her job. The terminations added a short-term burden on the other LMS employees, but the atmosphere did change very much for the better.

Stephanie was pleased with herself because she didn’t let the three women walk all over her. She had only been supervisor less than four months and had successfully documented Tina, Tammy, and Lisa’s misconducts and used the disciplinary system to her advantage.

Stephanie invested a great deal of effort to recruit and hire qualified applicants to replace the two discharged workers. She wanted to make sure to hire candidates who had the right work attitudes and past records of good performance. Tom had asked to sit in on her interviews. Stephanie felt she was a competent interviewer and had hired many workers in her past, particularly when she was the manager of the fabric store. One of the last questions Stephanie
asked applicants was “what is your biggest work related pet peeve?” The first candidate stated that his pet peeve was that it drove him crazy when workers wasted time on the job. After sitting in on the interview and hearing that, Tom told Stephanie, “O.K., you clearly know what you are doing. I don’t need to sit in on any more of your interviews.” This was very satisfying to her and she felt confident that she had enhanced her credibility as a manager.

One of the two workers Stephanie hired was 25 year old, Jeremy Phillips. Over time he proved to be a hard worker and he completed his work accurately. He was friendly and easy to work with.

The New Line Maintenance Location

LMS was responsible for the main store but also had five other smaller, unattended and unlocked, store locations throughout the facility. Unfortunately, line technicians and engineers were not very diligent at recording their withdrawals of inventory from the smaller locations which caused all sorts of problems for Stephanie’s department. Consequently, Stephanie was granted permission to relocate the materials from those smaller locations to a single larger area that would be locked when unattended by a LMS’ employee. The process of setting up the new store and transferring and documenting the movement of materials had to be performed while LMS’ employees kept up with their normal day-to-day responsibilities. Compounding the situation was that department had a couple of relatively new hires, who were not completely up to speed on how to perform their jobs efficiently and effectively. Further exasperating the transition, Stephanie had to assign one of her employees, Jeremy, to work in the new store to enter data for the line items.

Jeremy worked alone in the new location and no internal customers (technicians) visited the store during those initial weeks because it was not yet operational. He would drop by the main store location area to check in with Stephanie at the beginning and ending of his day. During this period, she would visit Jeremy once or twice a day to ask him how progress was, and to demonstrate to him that he was not forgotten. Jeremy was always upbeat, indicating things were moving along just fine. Stephanie had no reason to suspect otherwise. He was now an experienced Storekeeper, having worked in the job for over a year now. Jeremy was also a conscientious, hard-working employee, and she knew she could rely on him to work alone and do a good job.

Stephanie’s Visit to Devin Collins’s Office

Stephanie sat in a chair in Devin’s office and politely asked Devin how he was doing. She was anxious to learn what was going on but also wanted to get back to her work. Devin replied, “I am fine. How are you?” She responded, “I thought I was fine but I am not so sure right now. What is it you wanted to talk with me about?” “Stephanie, IT discovered that someone breached our system’s firewall and that it had been done with one of the Stores’ computers. They narrowed their search down and found that it involved Jeremy’s computer. IT has determined that he has been spending between one and two hours each day over the last couple of weeks on firewalled [blocked] Internet sites.” “That jerk, how could he do that to the rest of us?” She responded. “Devin, every time I checked in on him he was always so positive about how he was
progressing. He was probably online at non-work related sites some of the times I showed up. He probably quickly changed links as he sat there and lied to me!” “Stephanie, I understand your frustration, but there is more. The Internet sites he has been visiting are pornographic.” She put her hands over her face for a moment and then replied, “Tell me you’re kidding. Jeremy has a beautiful young wife and they just had a baby girl a couple of months ago. I just don’t understand why he would do that. We have all been under so much pressure to maintain daily operations as we have worked to inventory the new location. How could he do that? This really ticks me off!” “I don’t know why he would do it either but he did,” Devin replied.

Devin was asked by another HR staffer if she could borrow him for a minute. He excused himself but returned a few minutes later. While he was out of the office, Stephanie had a chance to think about what had unfolded. She found herself wondering what she might have done wrong or could have done differently which could have prevented Jeremy from straying from his work. She felt her biggest mistake was being so trustful. But Jeremy had earned her trust. She wondered, if this would have happened had she established goals regarding the number of inputted lines of items expected per day. Might that have made a difference? Before she had a chance to think about this too long, Devin had returned. “Now where were we?” he asked.

Devin went on and told Stephanie about some of the evidence IT had accumulated. He informed her that IT was able to document the time Jeremy spent at each of the different illicit web sites, and had printed copies of a sample of pictures from the hundreds of sites he had visited. “Stephanie, they are quite graphic!” He could see that Stephanie was obviously very angry and upset. “Devin, do you have those pictures?” “Yes, yes I do,” He replied. “I want to see them,” Stephanie asserted. “Are you sure?” Devin asked in surprise. “Yes, let me see them. I need to see the evidence for this to seem real.” Devin raised his eyebrows and then handed Stephanie a large envelop. She opened it and took out a stack of photos. She looked at the first few, but turned them over and placed them back on the pile as she sighed and shook her head in disgust. “I can’t believe this. I am so angry that Jeremy would do this. He is such a nice guy but he has been stealing time from us during a period when everyone has been working under a lot of pressure and feeling a lot of stress. How could he be so selfish?” Devin hesitated for a number of seconds and then changed direction. “Stephanie, I know retention of LMS’ employees has been a challenge this past couple of years, and that you have been working hard to upgrade the quality of workers in your department. I recognize that this might impact what you think we should do.”

What Do You Want Us to Do?

Devin asked her straight out. “What do you want us to do?” Stephanie was a bit surprised at the question, not realizing that it was her decision to make. Although she had not had much time to think about it, she figured that Devin would have advised her on a course of action, but he did not do that. As a result, she took his words literally. She knew the decision was hers to make.
Appendix A

Excerpts from DMD Systems’ Policies and Procedures Handbook

Statement Concerning Employment

DMD is involved in a very competitive business. Many individuals and companies rely on the quality and reliability of our products and services. As a result, all employees are expected to provide excellent and reliable service to DMD, to customers, and to fellow employees.

All DMD employees are employed on an “at will” basis. This means that you have the unlimited and unrestricted right to resign at any time, and DMD has the unlimited and unrestricted right to terminate your employment at any time, for any reason not expressly prohibited by law, with or without prior notice or cause.

Except as otherwise expressly provided in an individual written employment contract, signed by the President of DMD (or the President’s specifically authorized designee) and by you, this “at will” relationship cannot be changed by any person, statements, acts, series of events, or pattern of conduct. Current employees understand and accept this relationship as an integral part of their employment with DMD. Employees who do not accept employment on this basis should seek employment elsewhere.

In addition, it may be necessary to reduce the employee force for reasons such as loss of business, lack of work, consolidation of jobs, elimination of certain job functions, elimination of certain parts of our business, closure or sale of a facility, or any other business reason. Such reductions in force are permanent unless expressly stated by DMD in writing to be temporary. DMD will select the person or persons who are to be included in the reduction in force, based on DMD’s judgment of needs and skills. No such employee has any right to be recalled.

With the exception of DMD’s mutual “at will” employment policy, DMD’s practices, policies, and programs may be amended at any time, and, depending upon the particular circumstances of a given situation, DMD’s actions may vary from a particular practice, policy, or program. ACCORDINGLY, THE CONTENTS OF THIS HANDBOOK DO NOT CREATE CONTRACTUAL TERMS OF EMPLOYMENT, EXPRESS OR IMPLIED, OR CONSTITUTE AN EXPRESS OR IMPLIED CONTRACT OF EMPLOYMENT. Rather, they are intended to serve as general guidelines concerning certain of DMD’s present practices, programs, and policies. Furthermore, in the event of a conflict between the contents of this handbook and a particular DMD policy implemented or updated after the date of the publication of this handbook, the particular policy (which may be amended by DMD from time to time at its discretion) will govern. DMD’s policies are available at any time for your review in the Human Resources (“HR”) Department and on the company intranet.

If you have questions regarding an area not covered in this handbook, or if you wish additional clarification concerning anything contained in this handbook, please contact the Human Resources Department.
Access to Facilities, Systems, Containers, Etc.

All of the facilities, systems, equipment, resources and services made available to you by DMD are exclusively for the pursuit of DMD’s business interests (including, without limitation, DMD’s vital interests in security and confidentiality). DMD must at all times have unrestricted control of and access to all aspects of its business operations. Safety, security, trade secret and confidentiality concerns are an integral part of DMD’s business activities. As a consequence, DMD reserves the right to monitor, review, copy, intercept, disclose, access or otherwise search, at its sole discretion and at any time, electronic messages (e-mail), Internet and Intranet transmissions, voice mail messages, incoming or outgoing facsimile (fax) transmissions, computer directories, computer data in any form, and incoming or outgoing mail utilizing a government or private carrier mail while it is on DMD’s premises.

Your use of any information system owned, operated or otherwise maintained on DMD’s premises shall constitute your consent to such access by DMD.

Incidental and occasional personal use of DMD’s systems, equipment and supplies is permitted (although any such use that is inappropriate and/or excessive constitutes a violation of DMD’s Rules of Conduct, and may result in disciplinary action, up to and including termination). Every employee must recognize that there is no expectation of privacy with respect to any such use.

In addition, DMD reserves the right to access and search, at its sole discretion and at any time, lockers, desks, cubicles and any other areas assigned to or used by an employee. Private automobiles, briefcases, lunch boxes, toolboxes, purses, backpacks, parcels, bags or any other such containers, while on DMD’s premises, are subject to search at any time. DMD vehicles are subject to search at any time, whether on or off DMD’s premises. Your bringing onto DMD’s premises a private automobile, or your bringing any container onto DMD’s premises, or your receipt on DMD’s premises of any container, shall constitute your consent to its search.

No employee shall have any expectation of privacy in any such private automobile or container, whether closed, locked or otherwise sealed, while it is located on DMD’s premises.

Rules of Conduct

Whenever people work together, their safety, efficiency and well-being requires adherence to certain rules of conduct. DMD’s policy is to keep rules to a minimum and to formulate them only with the good of all in mind.

These rules are not intended to create any contractual terms of employment, express or implied, nor do they constitute an express or implied contract of employment. They do not affect DMD’s right to terminate employment “at will”, with or without notice or cause. Thus, the following are the usual but not exclusive guidelines for conduct, discipline and/or discharge and may at any time be amended, modified or rescinded as DMD deems desirable.

Among the job performance characteristics required of each DMD employee are the following:
Ability to work competently and independently with a minimum of supervision.

[Some other items listed in the handbook have been omitted.]

An employee who fails to maintain at all times proper standards of conduct, or who commit acts such as those appearing in the following list, shall be subject to immediate disciplinary action, up to and including termination:

- Unsatisfactory job performance.
- Improperly seeking or obtaining unauthorized access to work areas, computer systems, or confidential or restricted data, documents or other materials.
- Improperly using DMD’s e-mail system and/or DMD’s access to the Internet for any purpose that is not reasonably related to an employee’s job functions and duties, or in any manner that would violate any other Rule of Conduct contained in this handbook, or in any manner that would violate DMD’s “Internet Policy”.

[Some other items listed in the handbook have been omitted.]

Because rule violations have an adverse effect on the continuity, efficiency and safety of DMD’s operations, a violation may result in immediate disciplinary action including termination, suspension and/or a warning notice. A DMD warning notice generally will contain specific incidents, dates and corrective action.