

An engineer signed a two-year contract to serve as the chief safety engineer for a coal mine at a salary of \$7,000 per month. The position required the engineer to work underground each workday. After one week on the job, the engineer became very ill. He requested testing of the mine air system, which revealed the presence of a chemical agent to which the engineer had a rare allergic reaction. The engineer promptly quit. The coal mine then hired a qualified replacement for the remainder of the engineer's contract at a salary of \$7,500 per month.

Assume that no statute or regulation applies.

If the coal mine sues the engineer for breach of contract, is the coal mine likely to recover damages?

- A. No, because an at-will employee has the right to terminate an employment contract.
- B. No, because the risk to the engineer's health excused his nonperformance of the contract.
- C. Yes, because the coal mine acted in good faith in mitigating the effect of the engineer's failure to finish the contract term.
- D. Yes, because the mine is reasonably safe for most people.

Explanation:

Ways to discharge contractual obligations

Full performance of contractual obligations

Impossibility, impracticability, or frustration of purpose

Release (in writing only)

Mutual rescission

Substituted contract

Contract or covenant not to sue

Accord & satisfaction

Novation

Mnemonic: **FIRM SCAN**

A contract is **rescinded** (ie, canceled) due to the occurrence of an **unexpected or extraordinary event** if:

that event makes it **impossible or impracticable** for one or both parties to perform their duties

the contract was formed under a **basic assumption** that the event would not occur *and* **neither party was at fault** in causing the event to occur.

Rescission excuses both parties' nonperformance of the contract, which means that there can be **no recovery of damages for breach**.

Here, the engineer contracted to work in a mine each workday for two years. After one week, the engineer unexpectedly became very ill due to a *rare* allergy to a chemical in the mine—making it impracticable, if not impossible, for him to perform his duties. The parties must have assumed that the engineer did not have this rare allergy, and nothing indicates that either party caused the chemical's presence in the mine. Therefore, the engineer's health excused his nonperformance, and the coal mine is unlikely to recover damages.

(Choice A) The engineer was *not* an at-will employee since he agreed to work for a term of two years. But had he been one, he would have had the right to terminate his employment for any reason.

(Choice C) After a breach of contract, the nonbreaching party must act in good faith in mitigating (ie, minimizing) his/her damages. But here, there was no breach since the engineer's nonperformance was excused.

(Choice D) Although the mine is reasonably safe for most people, the doctrines of impossibility and impracticability apply even when one of the parties is particularly vulnerable to the unexpected event (as seen here).

Educational objective:

A contract is rescinded, and both parties' nonperformance is excused, when (1) an unexpected or extraordinary event makes it impossible or impracticable for one or both parties to perform, (2) the contract was formed under a basic assumption that the event would not occur, and (3) neither party was at fault in causing the event to occur.

References

Restatement (Second) of Contracts § 261 cmt. d (Am. Law Inst. 1981) (explaining that an unexpected event can discharge a party's duty to perform due to impossibility or impracticability).

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