

Emergency At Work: Court Upholds Nurse's Disability Case.

A nurse suffers from Lupus and has a congenital heart defect. The hospital where she worked knew about her medical condition. The hospital accommodated her by allowing her to take time off without incurring unexcused absences.

Her nursing performance reviews were always positive and she was never disciplined for misconduct despite having to be treated three times at work by the rapid response team and in the emergency department for dizziness, lightheadedness and fainting.

One day she had to tell her supervisor she was not feeling well. Her supervisor told her to reassign her patients and then go on break. Before she could finish doing that the nurse collapsed.

Her coworkers put her in an unoccupied patient room and started a normal saline IV, but without a physician's order.

The nurse was terminated for allegedly asking or allowing others to give her an IV without a physician's order.

The nurse tried to stay at her post as long as she could without abandoning her patients.

Then her coworkers made the decision to give her an IV without an order.

UNITED STATES DISTRICT COURT
PENNSYLVANIA
April 30, 2015

The US District Court for the Eastern District of Pennsylvania ruled the nurse is entitled to her day in court.

A jury will decide once and for all whether the explanation offered by the nurse's employer for firing her is so weak and implausible that it was only a pretext for illegal disability discrimination.

The jury will also decide if the hospital's report to the Board of Nursing after her suit for discrimination was filed was illegal retaliation. ***Mullen v. Chester Co. Hosp.***, 2015 WL 1954399 (E.D. Penna., April 30, 2015).

Stress, Depression: Court Turns Down Nurse's Disability Discrimination Lawsuit.

It stands to reason that every employee would want to work in a stress-free environment.

However, if job-triggered stress were sufficient to require an employer to reassign the employee to another shift or location or supervisor, then the employee could dictate to the employer the job he or she will agree to perform or the conditions under which he or she will perform it.

An employee is not limited in the major life activity of working if the employee's medical restrictions only affect the employee's ability to work a particular shift and not the broader ability to work in the employee's particular occupation.

An employee or prospective employee is entitled to legal protection as a disabled individual if the employee or prospective employee has a physical or mental condition that limits a major life activity.

A major depressive disorder or clinical depression brought on by job stress can limit the major life activity of working. However, this nurse is able to work in her profession except for early morning shifts.

CALIFORNIA COURT OF APPEAL
May 1, 2015

A supervising nurse caring for inmates in the county jail began having medical problems including headaches, fatigue, dizziness, dehydration, neck, back and abdominal pain, loss of appetite, weight loss, nausea and vomiting.

Her physician related her problems to work stress that compromised her emotional condition. Her physical symptoms did not stem from any organic pathology but were related only to stress at work.

Specifically, it was the stress of being present and working in the jail during the early morning hours of her 10:00 p.m. to 6:00 a.m. night shifts that triggered her physical symptoms and led to her psychiatric problems, the physician went on to say.

Employer Engaged in Interactive Communication Process

As required by law, the nurse's supervisors began a lengthy and extensive interactive communication process with the nurse to try to arrive at a reasonable accommodation that would meet the needs of both the nurse and her employer.

The ongoing interactive communication process was documented for the nurse's personnel records on an Interactive Process Worksheet.

It was documented that the nurse was given temporary assignments to day shifts and then returned to her previous night shift when day shift assignments were not available. As the interactive communication process went forward notes from her physician as to her reactions to different trial assignments were retained for the file.

In the end the nurse was terminated after she could not return to work at all pursuant to her physician's instructions.

No Disability Discrimination

The California Court of Appeal turned down the nurse's disability discrimination lawsuit.

The disability she claimed was the inability to work in the jail where she was assigned during the early morning hours of a night shift. That narrowly defined problem did not limit her overall ability to work as a nurse and thus it was not a legal disability. ***Safari v. County of Los Angeles***, 2015 WL 209169 (Cal. App., May 1, 2015).