

Prescription Rx: Employee Can Be Terminated For Drug Reaction On The Job.

A hospital RN became certified as an EMT and continued his employment under that job classification, working a total of more than twenty-two years at the hospital prior to his termination.

He had been diagnosed with Type II diabetes, hypertension, sleep apnea, insomnia and chronic pain from a back injury. He had a prescription for Ambien for sleep and an opiate for his back pain.

On-the-Job Medication Reaction

Just back at the hospital from an EMT call he was observed leaning against the wall and acting strange and, when questioned, seemed confused and somewhat unresponsive, almost asleep.

In the ER repeat glucose levels were normal. His stupor quickly resolved, however, after two doses of Narcan.

Pursuant to the hospital's established policy, management having reasonable suspicion of on-the-job drug use, he was required to submit and tested positive for an opiate. He was terminated for violating the hospital's existing policy prohibiting a positive drug screen while on duty and for failing to report that he was on prescription medication that could affect his ability to perform his job safely and effectively.

No Disability Discrimination

The US District Court for the Middle District of Georgia dismissed his disability discrimination lawsuit.

The court ruled he did not have a disability, as disability is contemplated for purposes of the Americans With Disabilities Act. Despite his diabetes, hypertension and chronic back pain he was generally able to do his job, that is, he had been doing his job satisfactorily for many years.

The court said that sleep apnea, insomnia and sleep deprivation could be considered disabilities, but there was no way to stretch the facts of this case to claim the case involved a failure to provide reasonable accommodation. **Robinson v. St. Mary's Health Care**, 2007 WL 710155 (M.D. Ga., March 6, 2007).

A disability is a physical or mental impairment that substantially limits a major life activity.

This employee, however, admitted he was able to do his job and did do his job satisfactorily for more than twenty-two years, despite his medical limitations.

The Americans With Disabilities Act considers working to be a major life activity, but to be disabled an individual must be unable to perform a wide range of jobs, not just one particular job.

Even if the worker has a legally-recognized disability, an employer can discipline or terminate the employee for a legitimate, non-discriminatory reason.

A healthcare facility has a legitimate right to outlaw employee misconduct which does or which could threaten patients' safety.

Sleep apnea actually is listed as a disability under Federal EEOC regulations, but it would be a stretch to see how this case involves inexcusable failure to provide reasonable accommodation to that condition.

UNITED STATES DISTRICT COURT
GEORGIA
March 6, 2007
