Pregnancy Discrimination: LPN's Case Dismissed.

Although she was licensed as an LPN, being an LPN was not a requirement for her position as a client services supervisor for an agency which provided in-home, non-professional personal services for its clients.

When she became pregnant she started to worry that her pregnancy would not be accepted by her supervisors and she would be terminated.

In fact she was terminated. It happened after she visited the home of a one-hundred-year-old potential new client and completed the full gamut of admissions paperwork only by speaking with the family and never even seeing, speaking with or conducting any hands-on assessment of the elderly lady who was lying in her bed in the bedroom and had already died.

There was no direct evidence the company discriminated against the LPN because she was pregnant.

The company generally allowed pregnant employees to continue to work.

UNITED STATES DISTRICT COURT
INDIANA
October 2, 2012

The US District Court for the Northern District of Indiana dismissed the LPN's pregnancy discrimination case.

The Court went over the grim details of the botched assessment of the already-expired client and concluded the LPN's conduct was a sufficiently outrageous example of misconduct to justify termination for cause and to overcome any accusation of illegal discriminatory intent.

There was nothing suspicious about the timing of her firing five weeks after her supervisor learned she was pregnant. Her subjective feeling her duties were being increased and her supervisors were looking at her more closely proved nothing, the Court said. **Hitchcock v. Angel Corps., 2012 WL 4513922 (N.D. Ind., October 2, 2012).**

Pregnancy Discrimination: CNA's Lawsuit Dismissed.

The facility's policy is legitimate only to recognize medical restrictions from work-related injuries as the basis for allowing an employee to continue working on light-duty status.

The facility's policy was applied in practice on a non-discriminatory basis.

A non-pregnant male CNA was treated the same as the pregnant CNA in this case.

He was taken off the active roster after his physician imposed a lifting restriction for his non-work-related injury and was offered up to twelve weeks of unpaid Family and Medical Leave Act leave until his physician cleared him as medically able to return to work without his lifting restriction.

It is irrelevant that, unlike the female CNA who filed this lawsuit, her male CNA co-worker chose to accept the medical leave offered to him and came back to work when his physician cleared him instead of forfeiting his employment.

Pregnancy is not recognized by the courts as a disability for purposes of the Americans With Disabilities Act. The allegations of disability discrimination raised in this lawsuit thus have no legal foundation.

UNITED STATES DISTRICT COURT
MICHIGAN
September 27, 2012

Her supervisors learned she was pregnant when the CNA declined to take her annual TB test because she was pregnant.

To continue to be scheduled for work shifts at the nursing home she was told she had to obtain a note from her own physician stating whether or not she could work as a CNA without any restrictions. Her physician faxed back a note stating that she could work, with a restriction against lifting more than 50 lbs.

The CNA was taken off the active roster and offered twelve weeks of unpaid Family and Medical Leave Act leave. She declined the offer and was terminated.

She sued her former employer for pregnancy and disability discrimination. The US District Court for the Eastern District of Michigan dismissed her case.

Facility's Policy Was Neutral As To Pregnancy

The facility's policy was that all direct care personnel had to be able to work without any medical restrictions unless the restriction was from a work-related injury. Light duty was made available only for a work-injury-related medical restriction.

The Court first looked at a direct care worker's duties in a nursing home, assisting patients in and out of bed and wheelchairs, helping them shower and assisting them to the floor when they fell while ambulating, etc. It was legitimate and non-discriminatory not to let a CNA work with a 50 lb. lifting restriction, the Court said.

The CNA's arguments in support of her lawsuit pointed to a non-pregnant male aide who was not terminated after he became unable to work due to a 50 lb. lifting restriction from a non-work-related injury.

However, his situation actually proved the non-discriminatory nature of the facility's policy. He was treated exactly the same, except that he accepted the unpaid medical leave offered to him and returned when he was able to work without restriction, rather than forfeiting his employment.

The Court also noted that pregnancy simply is not recognized by the courts within the definition of disability for purposes of the disability discrimination laws. **Latowski v. Northwoods Nursing Ctr., 2012 WL 4475542 (E.D. Mich., September 27, 2012).**