

Religious Discrimination: Employee Was Offered Reasonable Accommodation.

Title VII of the US Civil Rights Act requires employers to offer reasonable accommodation to employees' religious beliefs, observances and practices.

However, the law does not define the meaning of the phrase "reasonable accommodation" and it must be decided case-by-case.

Employers are not absolutely required to accommodate at all cost.

Some employers' businesses require at least some employees to work Fridays, Saturdays and Sundays.

Some employees' religions forbid working on those days and/or require the employee to attend religious services.

Other employees would prefer to enjoy their days off on the weekend.

The law does not subordinate one person's desire for weekends off for whatever reason to another person's desire to adhere to his or her religious beliefs.

The employer must offer a solution that is a reasonable solution. It may or may not necessarily be what the employee wants.

UNITED STATES COURT OF APPEALS
ELEVENTH CIRCUIT
November 7, 2007

The US Circuit Court of Appeals for the Eleventh Circuit ruled recently that a healthcare facility did offer reasonable accommodation and thus did not commit religious discrimination.

The facility refused to allow a unit secretary always to have Fridays and Saturdays off from her 3:00 p.m. to 11:00 p.m. work shift as she requested on the grounds that her beliefs as a Seventh-Day Adventist prohibited her from working on those days and times.

Reasonable Accommodation Was Offered

The facility offered the unit secretary the opportunity to re-train for a flex-CNA position and to be entered into the system for flex-CNA assignments.

Although retraining is not necessarily the employer's obligation in this sort of situation, her CNA refresher course would have been at employer expense.

Again, although not necessarily required, as a sign of good faith the facility continued to pay her health insurance for two months, during the interval between the meeting at which she was told she could not continue as a unit secretary with a no-Fridays and no-Saturdays accommodation, until she was finally terminated for failing to respond to phone calls to her and to her pastor and letters to her offering her the flex-CNA accommodation.

According to the court, the employer's obligation is to offer a reasonable accommodation. The employer is required to communicate with the employee to find out what the employee wants. Beyond that, however, the employer's obligation is only to offer a solution that is reasonable to both sides, which may or may not be what the employee has asked for.

One employee's desire simply to have weekends off if possible is not less important than another employee's religious beliefs and practices, the court pointed out. Morrisette-Brown v. Mobile Infirmary Medical Center, __ F. 3d __, 2007 WL 3274898 (11th Cir., November 7, 2007).