

Discrimination: Disabled Employee Could Not Return To Work.

The Superior Court of New Jersey, Appellate Division, dismissed a nurse's disability discrimination lawsuit against her former employer, the hospital where she had worked in the ICU before sustaining an off-the-job back injury.

The hospital gave the nurse all the time off to which she was entitled under the US Family and Medical Leave Act (FMLA).

After her FMLA leave eligibility was used up she asked for additional time off as reasonable accommodation for her disability.

Because it was her doctor's opinion that her disabling back injury would never allow her to return to work in the ICU, the court ruled she was not entitled to additional time off under the rubric of reasonable accommodation.

Time off for healing is a reasonable accommodation to a disability only if it will enable an employee who is otherwise qualified to return to his or her job to return to the job at a later point in time. Potash v. Hunterdon Med. Ctr., __ A. 2d __, 2009 WL 2253167 (N.J. App., July 30, 2009).