

Disability Discrimination: Factors Unique To One Job Environment Do Not Create A Legal Disability, Court Says.

The nurse's job responsibilities as the only nurse in the role of "IV nurse" at the clinic included preparing and administering IV's containing Remicade, a monoclonal antibody immunoglobulin.

She began having physical symptoms including blurred vision and aching joints.

She also began getting caught in the act violating basic infection-control practices, throwing used syringes and contaminated bandages in the regular trash and throwing unused uncontaminated supplies in the biohazard receptacles.

The nurse was issued a written disciplinary warning which she refused to sign. She also refused to meet with her managers to work out a corrective plan. She was eventually terminated.

Symptoms, Erratic Behavior Blamed on Workplace Toxins

The nurse's lawyer contacted the clinic stating that his client's erratic behavior resulted from toxic exposure to Remicade on the job and contact with toxic mold in the clinic building.

The lawyer went on to file a disability discrimination complaint with the local office of the US Equal Employment Opportunity Commission (EEOC)

The complaint was followed by a civil lawsuit against the clinic in the US District Court for the Northern District of Mississippi.

Factors Unique to One Work Environment Do Not Create A Disability

The court dismissed the case.

Even if her physical symptoms and her erratic behavior were linked to toxic exposures, the nurse still did not have a disability as contemplated by the US Americans With Disabilities Act (ADA).

By definition, a disability is a condition which prevents an individual from working at a broad range of jobs, for example, a person in a wheelchair who cannot work at jobs requiring the ability to stand. **Ballard v. North Mississippi Health Services**, 2008 WL 4603315 (N.D. Miss., October 15, 2008).

A disability, by definition, is a physical or mental impairment that substantially limits the individual's ability to work in a wide range of jobs in the workforce.

The inability to perform a single particular job or to perform work in a specific environment, coupled with the ability to work at other jobs or outside the one particular environment, means that the individual does not have a disability.

The courts have already set the precedent that a lab tech is not disabled because of sensitivity to certain chemicals if there are other opportunities to work in places where the same chemicals are not present.

Employer retaliation is nevertheless strictly out of the question when an employee speaks up about discrimination, files a complaint with the EEOC or a state agency or files a civil court lawsuit.

A victim of retaliation can sue for retaliation even if the discrimination case is thrown out, as long as he or she had a good faith belief that it was a valid case.

UNITED STATES DISTRICT COURT
MISSISSIPPI
October 15, 2008
