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Court Rules ADA Does Not Require Extended Leave

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Highlights:

- A federal court has ruled that multi-month leave is not an ADA "reasonable accommodation."
- The court ruled the ADA does not require employers to grant long-term leave for disabilities.
- Brief periods of leave may still be required under certain circumstances.

Important Dates:

September 20, 2017

- The U.S. Court of Appeals for the 7th Circuit ruled that extended leave is not required under the ADA

OVERVIEW

The U.S. Court of Appeals for the 7th Circuit has ruled that the Americans with Disabilities Act (ADA) does not require employers to provide long-term leave as a "reasonable accommodation" for individuals with disabilities.

The decision in Severson v. Heartland Woodcraft, issued on Sept. 20, 2017, is consistent with the court's prior ruling on a similar issue, but conflicts with rulings by other federal courts and the Equal Employment Opportunity Commission's (EEOC) position. The EEOC is the federal agency responsible for enforcing the ADA.

ACTION STEPS

Employers with 15 or more employees in Wisconsin, Illinois and Indiana may be able to rely on the case if they do not offer long-term leave as an accommodation.

Other employers subject to the ADA should review federal court decisions regarding reasonable accommodation that apply in their states. In addition, all employers subject to the ADA should be aware that the ADA may still require shorter leave periods as a reasonable accommodation.

Overview

In Severson v. Heartland Woodcraft, the 7th Circuit considered whether the ADA requires an employer to provide additional, long-term leave as a reasonable accommodation for an employee's disability after the employee exhausted his Family and Medical Leave Act (FMLA) leave.

The court ruled that a two- to three-month period of leave is not a reasonable accommodation under the ADA.

The court held that, because the ADA's reasonable accommodation requirement is expressly limited to measures that will allow an employee to work, a two- or three-month leave period is not a reasonable accommodation under the law. However, the court noted that briefer periods of leave to deal with a medical condition could be a reasonable accommodation under certain circumstances.

Background

The ADA is a federal law that prohibits employers with 15 or more employees from discriminating against "qualified individuals" based on disability. An employee is a qualified individual if he or she has a disability and can perform the essential functions of his or her job "with or without reasonable accommodation." The ADA requires employers to provide reasonable accommodation for a qualified individual, unless they can demonstrate that an accommodation would cause undue hardship.

The ADA does not define the term "reasonable accommodation," but it does provide examples of what it may include. Leave is not included. However, several federal courts have recognized that unpaid medical leave may be a reasonable accommodation under the ADA. In addition, the EEOC identifies leave as a potential accommodation in its ADA regulations and enforcement guidance.

Under the FMLA, employers with 50 or more employees are required to provide up to 12 weeks of unpaid leave to employees who are unable to work because of a serious health condition.

Severson v. Heartland Woodcraft

In 2013, Raymond Severson, who had worked for Heartland Woodcraft since 2006, took a 12-week leave of absence under the FMLA due to serious back pain. At the end of the 12 weeks, Severson underwent back surgery and asked Heartland Woodcraft to extend his leave by two to three months for recovery. Heartland Woodcraft denied the request and terminated Severson's employment, but invited him to reapply for a position with the company once he was medically able to resume working.

When Severson's doctor lifted all work restrictions three months later, Severson did not reapply. Instead, he filed a lawsuit against Heartland Woodcraft, alleging that the company violated the ADA when it refused to extend his leave. He argued that the refusal constituted a failure to provide reasonable accommodation for his disability. The EEOC agreed with Severson and advocated for him before the court.

The 7th Circuit disagreed with Severson and the EEOC. The court concluded that a reasonable accommodation "is one that allows the disabled employee to 'perform the essential functions of the employment position'" and that "not working is not a means" to that end. The court also compared the ADA to the FMLA, under which leave is available specifically to employees who are *unable* to perform their job duties. In contrast to the FMLA, the court said, "the ADA applies only to those who can perform the job."

The court held that, because the proposed two- to three-month leave did not make it possible for him to work, Severson was not a qualified individual under the ADA. Therefore, his proposed leave was not a reasonable accommodation under the law.

The court ruled that "reasonable accommodation is expressly limited to those measures that will allow the employee to work."

The EEOC had argued that a long-term medical leave of absence should qualify as a reasonable accommodation when the proposed leave is defined and limited in duration, requested in advance and likely to enable the employee to perform the essential job functions after the leave. However, the court found that this interpretation would make the duration of leave irrelevant and would effectively transform the ADA into an open-ended extension of the FMLA.

Leave periods of days or weeks may be required as reasonable accommodation.

The court noted that briefer or intermittent periods of leave could be a reasonable accommodation under the ADA in some circumstances. For example, a leave period of days or even weeks might be considered similar to providing part-time or modified work, which are both listed in the ADA as examples of reasonable accommodation.

Considerations for Employers

Whether an employer may deny an employee's request for leave as a reasonable accommodation under the ADA will depend on the specific circumstances of the situation. The 7th Circuit's decision only affects employers in Wisconsin, Indiana and Illinois. Employers subject to the ADA in other states should be aware that other federal court decisions may apply to them.

For example, the U.S. Courts of Appeals for 1st and 9th Circuits have issued decisions holding that multi-month leave periods were reasonable accommodation under the ADA. Those decisions affect employers in Maine, New Hampshire, Massachusetts, Rhode Island and Connecticut (1st Circuit), and employers in California, Oregon, Washington, Nevada, Montana, Idaho and Arizona (9th Circuit).

All employers subject to the ADA should also be aware that the 7th Circuit's decision conflicts with how the EEOC may enforce the ADA under its regulations and guidance.

More Information

Contact your BB&T Insurance Services, Inc, McGriff, Seibels & Williams, Inc., BB&T Insurance Services of California, Inc., or Precept Insurance Solutions, LLC representative or visit the EEOC website for more information regarding the leave issues under the ADA.