

Court Finds Epileptic Employee not “Qualified Individual” Under ADA or Missouri Law

1 min read

May 8, 2013

A mammography technician with epilepsy had suffered numerous seizures at work. The technician suffered epileptic seizures unpredictably, and they caused her to lose orientation and muscle control, which led to falls and injuries. The risk of injury to the technician and patients was too great, and the employer placed her on paid administrative leave. The employer thereafter made various other accommodations in order to eliminate environmental triggers to her seizures. Though she returned to work, the seizures continued. Her continued seizures and failure to find a accommodation led to the employer placing the technician on unpaid administrative leave. Once she began taking medicine to help control her seizures, the employer offered to reinstate her, but she refused.

The employer ultimately terminated the technician and she filed a charge with the Missouri Commission on Human Rights and the Equal Opportunity Employment Commission claiming violations of the Americans with Disabilities Act, the Age Discrimination in Employment Act, and state law. The technician claimed that the hiring of a younger technician to supplement the staff and the placing her on administrative leave were discriminatory acts. The employer filed a motion for summary judgment and prevailed, which led to the technician’s appeal.

The Eighth Circuit Court of Appeals agreed with the employer and district court. The court found that the technician was not a qualified disabled person under federal or state law as she could not perform the essential functions of her position, even with accommodation, and her inability to do so caused a direct threat to herself and others. For the same reason, she could not meet her burden of establishing that age was the “but for cause” of the adverse employment action (here, termination) because she could not overcome the initial hurdle of establishing that she was qualified for the position.

For more information read [Olsen v. Capital Region Medical Center, No. 12-2113 \(8th Cir., May 7, 2013\)](#).

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Topics

ADA, Disability, ADEA, Missouri