

Even Under ADAAA, Major Life Activity of Working Still Requires a Heightened Showing

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A medical assistant began suffering migraine headaches after being reassigned to a new doctor within the medical group by which she was employed. The headaches occurred several times per week and varied in severity. Shortly after submitting a letter of resignation, the assistant asked to rescind it. The request was denied. The assistant sued the medical group under the Americans with Disabilities Act (ADA), alleging that the employer failed to accommodate her disability and wrongfully terminated her employment. During discovery, it was established that the assistant had never suffered migraines prior to working for the specific doctor to whom she was reassigned, and stopped suffering headaches after her employment ended. Under the ADA, to qualify as disabled an individual must establish that he or she suffers from a physical or mental impairment that substantially limits a major life activity. Before the trial court, the assistant argued that she was substantially limited in the major life activity of working. Prior to the passage of the ADA Amendments Act of 2008 (ADAAA), establishing a substantial limitation in the ability to work required a showing that one was limited in a class of jobs or a broad range of jobs, rather than simply unable to perform a specific job or work for a specific employer. Nevertheless, the assistant argued that under the new U.S. Equal Employment Opportunity Commission (EEOC) regulations interpreting the ADAAA, she could establish a substantial limitation on her ability to work even if she was only unable to perform a single job. The U.S. Court of Appeals for the Tenth Circuit rejected this argument. While it noted that the EEOC's amended regulations no longer specifically refer to the "class of jobs or a broad range of jobs" requirement, the agency's interpretive guidance makes clear that this remains a required showing to establish a substantial limitation in the major life activity of working. Consequently, the assistant could not establish that she was disabled under the ADA, and summary judgment was granted to the employer. Employers should focus on specifically how an employee is limited in performing his or her job, as those facts may be crucial in determining whether the individual is disabled under the ADA.

Allen v. Southcrest Hosp., No. 11-5016 (10th Cir. Dec. 21, 2011)

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