

Court Holds that Job-Related Evaluation Consistent with Business Necessity does not Violate ADA

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In a case where the defendant construction company was represented by Hinshaw & Culbertson LLP, the U.S. District Court for the Northern District of Illinois recently ruled that the employer company did not violate the Americans with Disabilities Act (ADA) when it rescinded a conditional job offer to an employee who failed its job-related evaluation. The Court based its decision on the ADA regulations, which provide that an employer can defend against a discrimination claim by showing that standards, tests, or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability are job-related and consistent with business necessity. In the alternative, the ADA permits an employer to conduct post-offer examinations as long as it does so for all individuals entering the same job category.

In this case, the company implemented a policy requiring that all persons applying for field positions in Illinois successfully complete a functional capacity employment test. In June 2010, the company extended a conditional offer of employment to the plaintiff carpenter whom it previously laid off for economic reasons. The offer, however, was contingent upon successful completion of the evaluation, which ultimately revealed that the carpenter was unable to meet the company's minimum lifting requirements. The company then rescinded his conditional offer because the carpenter could not perform the essential functions of the job.

The Court ruled that the post-job offer exception to the ADA's medical test prohibition applied. Even if the evaluation was not required for each employee, it properly analyzed tasks that were representative of those performed by the carpenters and contributed to the company's efforts to maintain a safe workplace.

This decision serves as a reminder to employers that post-offer examinations must be applied to all individuals entering the same position or must be job-related and consistent with business necessity. If you would like more information read *Chi. Reg'l Council of Carpenters v. Berglund Constr. Co.*, No. 12 C 3604 (N.D. Ill. Dec. 19, 2013).

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Topics

ADA, Illinois, Medical Examination