

Uniform Application of Employment Policies Leads to Positive Outcome in Employee's Suit

2 min read

Oct 29, 2018

The Seventh Circuit Court of Appeals [recently explained](#) that an employee's inconvenience from a neutral workplace policy or the employer's discretionary denial of benefits cannot support a claim under the Americans with Disabilities Act ("ADA"), Title VII of the Civil Rights Act ("Title VII"), or the Family Medical Leave Act ("FMLA").

Elizabeth Tarpley worked as the IT Director of a Chicagoland college system. Throughout her employment, Tarpley experienced a number of medical issues and requested FMLA leave on multiple occasions. Each time Tarpley requested leave, the college approved her request. In early 2013, the college determined that leave was being administered inconsistently at its different campuses, and centralized leave-of-absence administration at the main office to improve oversight. The centralization caused a change in the manner that leave was calculated. After the change became effective, Tarpley requested 12 weeks of FMLA leave. The college informed her that under the new FMLA calculation, she had 5 weeks of leave remaining. It also informed her that she could submit a request for a personal leave of absence or a reasonable accommodation for a disability. However, Tarpley never submitted a request per the college's policy. Tarpley eventually resigned, and later filed suit alleging discrimination, retaliation, and failure to provide a reasonable accommodation in violation of the FMLA, ADA, and Title VII. The district court granted the college's motion for summary judgment.

The Seventh Circuit affirmed. It found that Tarpley's FMLA interference claim failed because she offered no evidence that the college treated her differently from other employees under its policies or that the policies interfered with or restrained her rights under the FMLA. Instead, Tarpley admitted the college granted her all of the FMLA leave to which she was entitled. Ultimately, the Court found that a change in the FMLA calculation process that caused mere inconvenience, stress, or resubmission of paperwork does not rise to the level of interference so as to be actionable against the employer.

Further, in considering the discrimination and retaliation claims, the Court found that Tarpley did not suffer an adverse employment action. The Court highlighted that the denial of a discretionary benefit, such as working from home, or the application of a neutral rule that is inconvenient to an employee, does not constitute an

adverse action. Rather, an adverse employment action is one that impacts the conditions of employment or alters the workplace environment to such a degree as to create a hostile work environment or compel the employee's resignation. Here, there were no intolerable working conditions to prompt Tarpley's resignation.

The *Tarpley* case reminds employers of the importance of uniformly applying neutral workplace policies and procedures to all employees. Doing so will deter lawsuits altogether and ensure positive outcomes when lawsuits do come. Due to the college's uniform application of its FMLA policies, Tarpley's claim failed because all other employees were treated in the same manner. This case also affirms that decisions to give or deny discretionary benefits to employees, when based on neutral, non-discriminatory factors, will not suffice as proof of discrimination and/or retaliation in potential lawsuits by employees.

Hinshaw & Culbertson LLP is a U.S.-based law firm with offices nationwide. The firm's national reputation spans the insurance industry, the financial services sector, professional services, and other highly regulated industries. Hinshaw provides holistic legal solutions—from litigation and dispute resolution, and business advisory and transactional services, to regulatory compliance—for clients of all sizes. Visit www.hinshawlaw.com for more information and follow @Hinshaw on LinkedIn and X.

Topics

Disability And Medical Leave, ADA, Disability, FMLA, Title VII, Failure To Accomodate, Reasonable Accomodation, Title VII Of The Civil Rights Act Of 1964, Employer Policies, Workplace Policies, Family And Medical Leave Act, Disability Discrimination, Adverse Employment Action