

Requesting an Accommodation After Violating a Work Rule Too Late Says Minnesota District Court

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In a failure to accommodate claim under the Minnesota Human Rights Act (“the MHRA”), [a federal judge granted summary judgment](#) for the employer, finding the employee’s after-the-fact explanation of his misconduct was not a valid request for accommodation under the MHRA.

Plaintiff, a broadband technician, suffered from diabetes. His condition sometimes caused him to have a sudden urge to urinate. Because of this, Plaintiff carried a bottle in his work van so that he could relieve himself. One morning, Plaintiff was sent to work at an apartment complex. Upon arrival, he experienced an urge to urinate and urinated into a bottle before he got out of his van. The manager of the apartment complex saw him. Upset, he reported Plaintiff’s actions to Plaintiff’s supervisor. Later that day, Plaintiff explained to his supervisor that he was diabetic, and that his condition sometimes gave him a sudden urge to urinate. This was the first time that Plaintiff notified his employer of his condition. Following a brief investigation, the employer determined Plaintiff’s conduct was in violation of its code of conduct and handbook and that termination was justified. Plaintiff responded with a lawsuit.

Plaintiff alleged his employer failed to accommodate his disability by not allowing him to use a disposable urinal bag or adult undergarments while on duty, and failed to engage in the interactive process. In its motion for summary judgment, employer argued that Plaintiff’s claim failed because (1) Plaintiff was not a qualified disabled person; (2) even if he was, Plaintiff did not request an accommodation; and (3) to the extent that Plaintiff requested an accommodation, it was a prospective request that is not protected under the MHRA.

In reaching its decision, the Court examined only whether Plaintiff requested an accommodation. In its review, the court noted the record indicated only that Plaintiff had told his supervisor that Plaintiff’s diabetes caused him to urinate frequently and suddenly, and that he uses a bottle because of these sudden urges. The court determined that this, however, was not a request for accommodation, and was only an explanation for Plaintiff’s actions. The Court held that providing an explanation for ones actions or informing an employer of a disability is not, in and of itself, a request for accommodation.

The Court expanded its analysis, saying that even if Plaintiff had requested permission to use a disposable urinal bag as an accommodation, there was no evidence that the use of the bag would have accommodated Plaintiff's condition and allowed him to perform the essential functions of his job. Plaintiff was required to work in public for extended periods of time. Thus, the use of a disposable urinal bag would not have allowed Plaintiff to perform the essential functions of his job any more than the use of a bottle to urinate. Further, in response to Plaintiff's argument that Plaintiff could perform his job if he could wear adult undergarments, the court determined that there was no record that Plaintiff had ever made a request for this accommodation either. Moreover, the court noted that a request to wear adult undergarments is not a request for an accommodation because the use of such undergarments would be a matter within Plaintiff's control and would not have required approval by the employer.

Lastly, the court determined that even if Plaintiff's comments could be construed as a request for an accommodation, his request was untimely. The fact that Plaintiff did not inform his supervisor of his diabetes until *after* the incident was fatal to his claim. The court held that an employer is not required to excuse past workplace misconduct even if it is the result of an employee's disability.

It is important that employers are attentive to an employee's request for accommodation and engage in the interactive process when accommodations are made. However, no duty to accommodate is imposed on an employer when an employee does not make a request. Further, if an employee is terminated and subsequently informs their employer that the incident occurred due their disability, the employer should not be held liable for failing to provide an accommodation.

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Topics

ADA, Disability, Failure To Accomodate, Reasonable Accomodation, Americans With Disabilities Act, Disability Discrimination, Minnesota Human Rights Act, MHRA