

## **Court Grants Judgment and Injunction in Favor of EEOC In Americans With Disabilities Act Lawsuit: UPS Freight's Policy of Paying Disabled Drivers Less Violates Federal Law, Court Rules**

Article By:

U.S. Equal Employment Opportunity Commission

---

A federal judge in the U.S. District Court for District of Kansas ruled on July 27, 2018, that UPS Freight violated federal law by having a policy, contained in its current union contract with the International Brotherhood of Teamsters, of paying disabled drivers only ninety percent of what nondisabled drivers earn when they temporarily move to non-driving jobs.

The U.S. Equal Employment Opportunity Commission (EEOC) filed a lawsuit in August 2017 (Equal Employment Opportunity Commission v. UPS Ground Freight, Inc., Civil Action No. 2:17-cv-02453) to obtain relief for Mr. Thomas Diebold. Mr. Diebold worked for UPS Freight from 2006 to 2015 as a driver at its Service Center in Kansas City, Kan. After suffering a minor stroke in 2013, Diebold sought non-driving work, as allowed by the company when drivers are temporarily unable to drive, whether for medical or nonmedical reasons, such as convictions for driving while intoxicated. But under UPS policy, later formalized in a collective bargaining agreement (CBA) between UPS Freight and the union, drivers with disabilities like Mr. Diebold who were reassigned to non-driving work for medical reasons were paid 10% less than drivers who were reassigned for non-medical reasons.

Considering the issue of UPS Freight's policy, Chief Judge Julie A. Robinson agreed with the EEOC and ruled the policy violates Title I of the Americans with Disabilities Act (ADA) because it "(1) limit[s], segregat[es], or classif[ies] drivers because of disability adversely affecting the opportunities or status of disabled drivers and (2) us[es] standards, criteria, or methods of administration that have the effect of discrimination on the basis of disability." UPS Freight also violated the law "by participating in a contractual relationship with the [union] that expressly discriminates against medically disabled UPS Freight drivers." In addition to declaring that the policy and union contract violated the law, the court issued an injunction order "permanently [preventing UPS Freight] from discriminating on the basis of disability in violation of [the ADA and preventing] UPS Freight and the [union] from negotiating and ratifying terms of the next collective bargaining agreement which would discriminate on the basis of disability in violation [of the ADA]."

Andrea G. Baran, EEOC's regional attorney in the St. Louis District Office, said, "The ADA is a powerful legal tool to protect workers from unlawful discrimination based on disability, and the EEOC

will vigorously challenge such discriminatory policies and practices. It is also important that the Court ruled UPS Freight's claim of simply following the terms of its union contract is no defense to violating the law."

"We are very pleased the Court recognized the gravity of UPS Freight's illegal policy and granted our injunction," said Grant R. Doty, an EEOC senior trial attorney in St. Louis. "This will have an immediate impact on thousands of UPS Freight's drivers nationwide who are subject to the policy and union contract."

Read this post in its original format on the [EEOC Website here](#).

© Copyright U.S. Equal Employment Opportunity Commission

---

National Law Review, Volumess VIII, Number 211

Source URL:<https://www.natlawreview.com/article/court-grants-judgment-and-injunction-favor-eeoc-americans-disabilities-act-lawsuit>