Sixth Circuit Issues ADA Work-from-Home Decision, Right Before We All Start Working from Home

As the world bunkers down and works from home during this COVID-19 crisis, a WFH accommodation decision from the Sixth Circuit feels timely. Though the decision predates social distancing and office closures, its relevance to the employer-employee relationship may outlast the coronavirus. In *Tchankpa v. Ascena Retail Group, Inc.*, the Sixth Circuit affirmed the principle that employers may require medical documentation to support work-from-home accommodation requests before granting those requests under the Americans with Disabilities Act and that an employee must show an “objectively intolerable workplace” to prove he was constructively discharged.

Judge Nalbandian, writing for the panel (Sutton, Readler joining), explained that once an employer seeks medical support from an employee requesting a work-from-home accommodation, the ADA requires the employer to show that the request was reasonable and provide the employer with medical documentation supporting the accommodation’s necessity. To achieve this standard, the medical documentation provided must show that the accommodation sought is necessary for the employee to work with the disability.

The facts of *Tchankpa* are illustrative. The employer sought medical documentation...
to prove that the employee's shoulder injury required that he work from home, but the documentation provided to the employer showed the employee could work eight hours a day, five days a week as long as he was given intermittent breaks throughout the day. Further, the employer offered the employee flexible hours or a leave of absence as an accommodation, but the employee only wanted the work-from-home accommodation. The court was not buying it: “The ADA is not a weapon that employees can wield to pressure employers into granting unnecessary accommodations or reconfiguring their business operations.”

Just as the employee failed to prove that the employer was required to accommodate his request, the employee fell short of proving his employer “constructively discharged” because of his disability. Judge Nalbandian, after quoting John Milton, wrote that “[o]ur job is to confirm that the plaintiff’s work conditions were indeed hellish, or at least close to it.” But, as the court lays out, the conditions cannot just be hellish for all workers. Instead, disabled employees must “show a nexus between their disability and the intolerable workplace, even if they need not show that the employer created the substandard workplace with the intent to oust that employee.”

“The mind is its own place, and in itself / Can make a Heav’n of Hell, a Hell of Heav’n.” JOHN MILTON, PARADISE LOST

The panel concluded with a reminder that “the ADA shields disabled employees from discrimination—it does not permit carte blanche litigation.” This decision comes at the precipice of what might become a cultural change in the business community regarding working from home. The economic and legal questions businesses face may reshape work well after the COVID-19 crisis ends.

© Copyright 2020 Squire Patton Boggs (US) LLP

Source URL: https://www.natlawreview.com/article/sixth-circuit-issues-ada-work-home-decision-right-we-all-start-working-home