

ELEVENTH CIRCUIT CONFIRMS THAT RELIGIOUS ACCOMMODATIONS ARE A TWO-WAY STREET

In a **recent opinion**, the Eleventh Circuit Court of Appeals addressed the employer's and the employee's responsibilities in relation to claims alleging a failure to accommodate religious beliefs.

The employee in question worked for a hospital as a clinical technician ("CT") in the Oncology Department, which typically required the CTs to work every other weekend. Because of the employee's religious beliefs, he could not work on Saturdays. The employer was able to provide religious accommodation by not requiring this employee to work the Saturday shifts. This accommodation was provided the entire time the plaintiff worked in the Oncology Department, approximately four years.

The plaintiff then applied to transfer to a different department that was smaller and more specialized. This department was a "closed unit" meaning that because of the specialized nature of the department, CTs from other departments were not able to rotate into the department and cover shifts. Even with the limited staffing, the employer still accommodated the employee.

However, after 23 months, there were significant staffing changes and the employer was no longer able to accommodate the scheduling changes for the plaintiff. The manager met with the plaintiff to explain this and provided several resources to the employee. The plaintiff did not show to his scheduled Saturday shift.

The Human Resources Director then met with the employee and sat at a computer with him to help him search for other available jobs within the hospital. There were several jobs available. Additionally, if the employee did not want to apply for another job, he was instructed that he would need to have the shift covered by switching shifts with another employee. The plaintiff did not show to his next assigned Saturday shift or work with his coworker to have the shift covered.

The employer hospital's corrective action policy utilized a point system in which an employee would be terminated if the employee were to accrue twelve points within a 12-month period. With these two absences, combined with additional points for unrelated matters, the plaintiff was fired and this lawsuit followed. The trial court granted the hospital's motion for summary judgment, dismissing the case. The Eleventh Circuit affirmed the dismissal.

PRACTICAL TAKEAWAYS

This case illustrates at least two important points beyond the legal obligation to accommodate an employee's religious beliefs. First, at least in the Eleventh Circuit, an employer who has offered the employee help to secure other employment within the company has likely made a reasonable accommodation where staffing issues limit a department's scheduling options. Second, the court recognized that accommodation of a religious belief is not one-sided. Employers have the duty to make reasonable accommodations for the employee. However, employees also have the duty to make a good faith effort to accommodate their own religious beliefs if an accommodation was offered by the employer. Here, the court acknowledged that the hospital had met its duty by providing options to the plaintiff in an attempt to accommodate his beliefs. However, the plaintiff had failed to meet his duty by refusing to even apply for open positions.

If you have any questions, please contact **Jon Rabin** at 248-457-7835 or jrabin@hallrender.com or your regular Hall Render attorney.

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