



Leading People.
Leading Organizations. (</pages/default.aspx>)

«
SECTIONS

[SHRM \(/Pages/default.aspx\)](/Pages/default.aspx) » [Legal Issues \(/LegalIssues/Pages/default.aspx\)](/LegalIssues/Pages/default.aspx) »
[Federal Resources](#)

ADA Suit Not Precluded By State Agency Decision

By Erin Fowler and Ed Druck 10/15/2015

Permissions

A district court erred in relying on a state agency's findings in dismissing a claim of disability discrimination brought under the Americans with Disabilities Act (ADA), the 2nd U.S. Circuit Court of Appeals held.

Juan Cortes was employed as a train operator with the New York City Metropolitan Transit Authority (MTA). He suffered a back injury and, pursuant to his collective bargaining agreement, was required to undergo a full physical examination by the city's medical staff prior to returning to work. This examination revealed a cardiac abnormality, which had the potential to be extremely dangerous. Because of the safety-related issues involved with Cortes's job, he could not be returned to his train operator position until he was medically cleared. Additional tests were then recommended.

The MTA provided Cortes with two months to report the results of his additional medical testing so that MTA's medical staff could make a final determination as to Cortes' ability to meet the physical requirements of his job. Cortes, however, was not able to meet this two-month deadline. The MTA then reclassified his work restrictions from temporary to permanent, which allowed the MTA to place the employee in a different position.

For several reasons, Cortes did not obtain the results of his tests until months after the deadline. He then failed to immediately report that the results found no cardiac abnormality. Instead, he waited an additional three months before informing MTA of his results. After reviewing the results of his additional medical testing, MTA's doctors lifted the work restrictions and the employee was again placed in a train operator position.

During the year it took for the employee to be cleared to return to work as a train operator, the employee filed a complaint with the New York State Division of Human Rights (NYSDHR) alleging that MTA violated the ADA by failing to accommodate his disability. The NYSDHR dismissed the complaint finding that the employee failed to comply with the requirements to be released to work. The division also found that the employee failed to request an accommodation. As a result, there was no basis for his claim, the division ruled.

The U.S. District Court for the Eastern District of New York granted summary judgment to MTA, dismissing Cortes' claim, concluding that the NYSDHR's findings of fact should be accorded "substantial weight" because it conducted what the court viewed as an independent and unbiased hearing on the issue and dismissed the employee's claim. It therefore held that to prevail on his claims, an employee must show that the NYSDHR's decision was incorrect as a matter of fact, or that its impartiality was tainted. Because, in its view, Cortes merely "rehashed" the same acts and arguments he presented to the NYSDHR, he fell far short of meeting his burden.

The 2nd Circuit reversed the district court's ruling, holding that the district court improperly relied on the NYSDHR's decision. The 2nd Circuit noted that such great deference is normally only reserved for arbitration decisions where an employer has contractually ceded final decision-making authority to the arbitrator. The court also noted that although state agency findings are admissible as evidence, courts do not "give preclusive effect to state agency decisions unless they have been reviewed in a state court proceeding." Thus, the district court improperly afforded a higher level of deference to the NYSDHR's decision than was warranted. For that reason, the decision was remanded to the district court for consideration of the disability discrimination claim.

Cortes v. MTA New York City Transit, 2nd Cir., No. 17-7123-cv (Sep. 4, 2015).

Professional Pointer: The dismissal of an employee's discrimination claim by a state agency neither prevents the employee from filing a claim in federal court nor requires that the court reach the same decision as the agency. Therefore, employers later litigating these same discrimination claims must offer credible evidence separate and apart from agency findings that their actions were nondiscriminatory.

Erin Fowler and Ed Druck are attorneys with Franczek Radelet P.C., the Worklaw® Network member firm in Chicago.

Permissions

RELATED CONTENT

Some State Background Checks Required; Others Permitted, Prohibited (/LegalIssues/StateandLocalResources/Pages/state-laws-background-checks.aspx)

Courts May Not Consider Sufficiency of EEOC Investigation (/LegalIssues/FederalResources/Pages/Sufficiency-of-EEOC-Investigation.aspx)
