

USPS EMPLOYEE ARGUES THAT HIS ATTENTION DEFICIT DISORDER IS A DISABILITY



A USPS employee suffering from ADHD (attention deficit hyperactivity disorder) was issued a Notice of Removal after missing too many days of work. He alleged that his employers were discriminating against him for a disability, as well as creating a hostile work environment. The man worked as a machine mechanic at the Processing and Distribution Center in Birmingham, AL. He takes medication for his ADHA, which is generally effective even when symptoms present themselves. During a six-year period, the employee was disciplined on seven separate occasions, most often due to missing work or unscheduled absences. The ensuing lawsuit claimed that the USPS had violated the Rehabilitation Act, which prohibits federal entities from discriminating against individuals with disabilities. The Rehabilitation Act also utilizes the same legal standards as the ADA (Americans with Disabilities Act) in terms of defining what a disability is and guidelines on what evidence must be presented to prove a case. The USPS employee's suit was somewhat dependent upon the ADAAA, or the ADA Amendments Act of 2008, which took effect in January 2009. Many of the acts which the man claimed were discriminatory took place prior to the change, so that, for all actions before 2009, the man would have to show that the USPS regarded him as disabled. But judges did not believe that he had successfully done so. Supervisors did testify that the man's limited attention span sometimes caused him to leave his work area, but there was no evidence that they believed he was incapable of handling a "broad class of jobs." They agreed that his ADHD did not affect his job performance or any major life activity. The ADAAA, however, changed the statute to require only that an individual is regarded as being impaired, whether or not an employer believed that the impairment affected a major life activity. The only allegedly discriminatory act that took place in 2009 (or later) was the Notice of Removal. The plaintiff, however, was unable to prove that he suffered discrimination because of a perceived disability – namely, that he received the notice because of his ADHD. He argued that there were other employees with a similar number of unscheduled absences in a 90-day period, none of whom had a perceived disability or received a notice. His only evidence to support this was a supervisor's deposition. The supervisor was asked if he always disciplined workers with several unscheduled absences, and he said that it depended on the "track record" – and that the plaintiff had been disciplined for his prior absences. This showed neither any co-workers in a similar situation nor any such employee being treated differently. The hostile work environment claim failed because, as the man could only use the Notice of Removal in 2009, it was citing a single incident in lieu of repeated offenses. Furthermore, he hadn't shown that the notice was discrimination on the part of his employers. The district court granted summary judgment in favor of the USPS, a decision which was affirmed by appellate judges.