

SHOULD WOMAN HAVE RECEIVED DISABILITY BENEFITS FOR DEPRESSION?



A woman working for BellSouth Telecommunications, a subsidiary of AT&T, alleged that her former employer violated the Americans with Disabilities Act (ADA) by not providing her paid time off for depression. She took her case to court, where she argued that her depression is a disability as defined by the ADA standards. The woman suffered for depression for a number of years, but it became harder to control in early 2008. She began feeling physically weak, had trouble thinking clearly and had suicidal thoughts. She met with the AT&T employee assistance counselor, who decided that the woman was unable to function. The counselor referred her to another doctor for further evaluation and recommended taking time off. She then went on medical leave for a little more than a week. Her second evaluation concluded that she suffered from “moderately severe depression” from the stress of caring for her sickly mother and working. The physician doubled her medication and recommended to AT&T that the woman’s medical leave be extended so that she could be treated for depression and anxiety. A third doctor had a similar assessment, noting that she was “emotionally unstable and not competent.” Shortly thereafter, a claim for short-term disability benefits, with the possibility of 26 weeks off, was denied by AT&T. This was because the third doctor recorded the employee’s cognitive functioning as “intact” and wrote that she could “perform activities of daily living.” Also relying on the physician’s admission that he couldn’t gauge the full extent of her impairment on a single examination, the company determined that any such functional impairment was not “significant.” The woman appealed the decision but lost. She was told to return to work in a couple of months, but she chose to retire instead. She followed that with a lawsuit, claiming a violation of ERISA (Employee Retirement Income Security Act) because she was qualified for benefits under AT&T’s



disability plan. She won and was awarded short-term disability benefits owed to her. An EEOC (Equal Employment Opportunity Commission) complaint and corresponding suit were next, citing ADA and the Tennessee Human Rights Act violations for failing to accommodate her, including the denial of additional medical leave and benefits. The district court, however, concluded that the woman wasn’t disabled but rather that her depression was a “temporary ailment” that could be treated with medication. Summary judgment was granted in favor of BellSouth and AT&T. On appeal, the woman argued that the Americans with Disabilities Act Amendments Act of 2008 (ADAAA) was more “inclusive” – more clearly defining her condition as a disability than ADA guidelines on which the district court relied. But the ADAAA took effect in January 2009 and could not be applied retroactively. Appellate judges also noted that the woman’s failure-to-accommodate claim was ineffective because she didn’t specify if she wanted the allotted 26 weeks off or more. And because she hadn’t specified a request for paid time off, it did not constitute a request for reasonable accommodation. The appeals court affirmed the district court’s decision.