

ABSENT FROM WORK TO CARE FOR DISABLED SON -- OR PLANNING A TRIP TO THE CASINO?



A man's absence from work during mandatory overtime was called into question, and he was fired. He claimed that his employers had discriminated against him because of his son's disabilities, violating both the ADA (Americans with Disabilities Act) and the FMLA (Family and Medical Leave Act). The man worked as a lead painter for Trinity Structural Towers, which manufactures tubular wind tunnels. He oversaw the work in the paint department at the company's Newton, IA, facility. In November 2009, he spoke to an HR rep about taking occasional FMLA leave to care for his son, who has cerebral palsy and severe asthma. He was sent a notice to submit paperwork justifying his request for leave before the end of the month. The employee, however, didn't submit the request until mid-December. In the meantime, he missed a few days of work to care for his son and accrued "attendance points." He was suspended with pay pending an investigation, but after the paperwork was turned in, the absences were retroactively excused, his attendance points were reduced and he returned to work. He later requested and was approved for leave on a couple of dates in February. The company sometimes asked its workers to handle overtime. When several of the man's co-workers volunteered to work a February weekend, he was required to work as well, as he was the only lead painter on his shift. One of the man's supervisors later spoke with a female employee who claimed that the man wouldn't be working on that Saturday – he'd allegedly told the woman that he was going to a casino and invited her along with him. The man later informed his supervisor that he wouldn't be able to work that weekend because his son might have to go to the hospital. A formal investigation ensued. The man was suspended, and the company collected a statement from the female worker, as well as another co-worker who said that the man told employees to not volunteer for overtime or they would "hear it from" him. He was eventually terminated for "discouraging" employees to work overtime. The district court granted summary judgment in favor of Trinity. On appeal, judges noted that, in order to prove an ADA violation, the man would have to show that Trinity fired him because of his son's disability, regardless of whether or not he'd actually planned a trip to the casino. Consequently, the company's showing of employee statements supports not only the reason for the man's firing but also that the termination was not motivated by discrimination. The plaintiff also argued that the reason for his firing was not legitimate because no one person took responsibility for the termination and because of the "shifting explanations" for deciding to fire him. Neither point, however, was strong enough to support a claim of an ADA violation. Similarly, appellate judges did not see how Trinity had interfered with his FMLA rights – the plaintiff was merely alleging that a day of leave was "misclassified." The discrimination claim was dismissed for the same reasons as the ADA violation, that the man couldn't overcome Trinity's reason for firing. Accordingly, the appeals court upheld the district court's ruling.