

MAN LAID OFF FOR SEVERAL MONTHS, RETURNS TO WORK IN NEW POSITION -- AND WITH A LAWSUIT



A tractor operator for Olin Corporation had a medical condition requiring him to work a regular daytime shift with no overtime. He was ultimately laid off for a number of months as Olin had no job available for him. Though he found another position at the company, he filed a lawsuit, alleging violations of the ADA (Americans with Disabilities Act) and ADEA (Age Discrimination in Employment Act) and other claims, including retaliation for lodging a complaint of discrimination. The man had worked at an Illinois facility in varying positions for over 30 years. For many of those years, he worked a swing shift, which entailed rotating shifts and some overtime. In 2002, he was diagnosed with fibromyalgia, with symptoms that were aggravated by a swing shift. Near the end of 2004, the man's physician recommended that he work eight-hour days with no rotation or overtime to help him maintain a regular sleep cycle. Olin complied with his request for no overtime for his new position beginning in 2005. Two years later, the man was diagnosed with sleep apnea. That same year, Olin effected its "job curtailment," which necessitated adjusting certain positions in the company. The man, the least senior of the daytime tractor operators, was transferred to a new job with a rotating schedule. He was unable to maintain the new schedule and submitted medical restrictions, asking to be reassigned to a daytime shift. Olin stated that no such position was available at that time, and he was laid off. He then filed a discrimination charge with the Illinois Department of Human Rights. He also bid on several open positions at Olin but was unsuccessful until December 2007. He later brought legal action against Olin and Global Brass & Copper, Inc., the company operating the facility since November 2007. The district court granted summary judgment in favor of the defendants. The man abandoned the ADEA claim and appealed the claims for an ADA violation and retaliation. Appellate judges disagreed with part of the district court's ruling. The district court did not believe that the plaintiff had proven that he was disabled according to the ADA. But judges on appeal thought that the man had provided sufficient evidence of his trouble with sleep due to his fibromyalgia and apnea. Federal judges asserted that he wasn't qualified as disabled because a CPAP machine was an option to improve his quality of sleep, his doctor said that he could work 40 hours of daytime shifts per week, and he could drive and handle recreational activities. Appellate judges believed that the plaintiff might still have sleeping problems with a CPAP machine, that he was still unable to engage in certain social activities, and that using the doctor's allowance of hours against the plaintiff is equivalent to asserting that ADA qualified individuals must be unable to work, which is inaccurate. As to the retaliation claim, the courts were in agreement – he'd been laid off for lack of work, not because Olin was responding adversely to his prior complaints. The appeals court reversed summary judgment on the ADA claim and vacated associated entry of costs imposed on the plaintiff, affirmed the retaliation claim and reversed the denial of the plaintiff's motion for sanctions. The case was remanded for further proceedings.