

Employment Law

MONTHLY

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April 2013

EDITOR-IN-CHIEF:

Vito A. Gagliardi, Jr.
973.889.4151
vagagliardi@pbnlaw.com

**PORZIO EMPLOYMENT LAW
ATTORNEYS:**

Phillip C. Bauknight
Frank A. Custode
Marie-Laurence Fabian
Gary M. Fellner
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Essential Could Mean Infrequent: A Look At "Essential Job Function" Under The ADA

By Suzanne E. Peters, Esq.

Earlier this month, the United States Court of Appeals for the Eighth Circuit ruled that an employer can terminate an employee without violating the Americans with Disabilities Act ("ADA"), 42 U.S.C. §12101, *et seq.*, if the employee's disability prevents him from fulfilling a job obligation listed in his job description, even if he rarely performed those job duties pre-disability. In *Knutson v. Schwan's Home Service, Inc.*, 12-2240 (8th Cir. Apr. 3, 2013), the Court determined that an employee's "essential job function" is not based on how many times he is required to perform those job duties, but rather what is listed in his written job description. This case demonstrates the need for employers to maintain specific, up-to-date job descriptions for their employees.

Facts

Defendant Schwan's Home Service, Inc. ("Home Service") delivers frozen food to customers at their homes or work. Home Service employed Plaintiff Jeffrey Knutson ("Knutson") as Location General Manager of a depot. Pursuant to Knutson's job description, he was required to meet the Federal Department of Transportation (DOT) eligibility requirements, which require an appropriate driver's license and corresponding medical certification as a condition of employment. Knutson's "Conditional Offer of Employment" also required that he be DOT-qualified for trucks weighing over 10,000 pounds and specifically stated that the offer was "expressly conditioned on...meeting [DOT] and Company standards for a physical examination."

During his time at Home Service, Knutson was DOT-qualified. Despite the requirement that a manager be qualified to drive trucks over 10,000 pounds, Knutson had driven a truck less than 50 times during his two years as manager. Indeed, he successfully managed his depot without regularly driving a delivery truck.

In March 2008, Knutson suffered an eye injury. Pursuant to the DOT eligibility requirements, "any driver whose ability to perform his normal duties has been impaired by a physical or mental injury" must be "medically examined and certified." 49 C.F.R. § 391.45. Knutson's physician refused to give Knutson a medical examiners certificate

("MEC") or a waiver when he evaluated Knutson in December. Accordingly, on January 6, 2009, Home Service placed Knutson on a 30-day leave of absence until he obtained either an MEC or a non-DOT-qualified job at the company. When Knutson failed to obtain either, Home Services terminated his employment.

Procedural History

Knutson filed a claim against Home Service, alleging that they breached his contract and terminated him in violation of the ADA. Specifically, Knutson alleged that he was disabled and that Home Service unlawfully fired him by failing to provide him with any accommodation for his disability. He also alleged that Home Service breached his contract by refusing to reimburse his mileage or pay him a bonus. Home Service moved for summary judgment on both claims, which was granted by the District Court. Knutson appealed.

Analysis

In order to succeed on an ADA claim, Knutson was required to show that (1) he was disabled within the meaning of the ADA; (2) he was qualified to perform the "essential functions" of his job; and (3) he suffered an adverse employment action because of his disability.

Home Service argued that Knutson was not qualified to perform the "essential functions" of his job. To support this position, Home Service supervisors testified that its managers were required to be DOT-qualified because they drove delivery trucks to deliver products and train employees. Knutson, on the other hand, argued that being DOT-qualified to drive a delivery truck -- and thus being required to obtain a MEC -- was not an essential function of his position as manager. Indeed, he pointed to the fact that he had driven a truck less than 50 times during his employment and that he had successfully managed his depot without regularly driving a truck or being DOT-qualified. The Court, however, determined that his personal experience was not relevant when determining whether a certain obligation is an essential function. Instead, an "essential job function" is based on "the written job description, the employer's judgment and the experience and expectations of all managers generally."

Here, Knutson's job description provided that he was required to meet the DOT eligibility requirements -- which included a valid medical certification -- as a condition of employment. The "Conditional Offer of Employment" also required that he be DOT-qualified and meet the DOT standards for a pre-employment physical examination. Accordingly, the Court determined that being DOT-qualified to drive a delivery truck was an essential function of Knutson's position and Knutson thus was required to obtain an MEC. Because he failed to do so, he was not qualified to perform an "essential job function," regardless of whether he had driven a truck frequently in the past or would have to do so in the future.

Knutson also argued that Home Service did not make reasonable accommodations for his injury. However, the Court rejected this argument, determining that an accommodation is unreasonable if it requires the employer to eliminate an essential function of the job. Because Knutson was required to be DOT-qualified as an essential function of his job, the Court determined that Home Service was not required to provide accommodations or reassign existing workers to assist Knutson. Even so, the Court noted that Home Service did attempt to accommodate Knutson and "engaged in an interactive dialogue by giving him the option of applying for non-DOT-qualified jobs at the company."

The Court similarly rejected Knutson's breach of contract claims.

Although Knutson argued that he was owed reimbursement for his mileage, he could not prove the existence of any written or oral contract relating to mileage reimbursement. Additionally, the Court rejected Knutson's claim for a bonus, finding that Home Service's written bonus plan did not require them to provide a bonus unless the employee was employed when the bonus was determined. Because Knutson was not employed at the time bonus decisions were made, he was not entitled to a bonus.

Lessons Learned from Knutson

Employers should ensure that their job descriptions are up to date and include all job duties that an employee may be expected to perform. Vagueness in a job description will only hurt an employer if a court has to determine a terminated employee's "essential job functions."

In the event an employee becomes disabled and is unable to perform his or her essential job functions, employers still should strive to engage in an interactive dialogue and provide the employee with reasonable accommodations or alternatives. Even though the Court in Knutson determined that Home Service was not required to provide accommodations or engage in a dialogue with Knutson, it looked favorably on Home Services for doing so.

Finally, this case demonstrates the importance of clear company policies. Indeed, Knutson's breach of contract claims were dismissed because of the clarity and specificity of Home Service's policies. Employers would be wise to revisit their current policies to ensure that all employee benefits and bonus plans are clearly set forth in writing.

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