SHRM - Employee Who Could Not Work Overtime Was Not Disabled Under ADA

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An employee who was not able to work overtime hours but was able to work a normal 40-hour workweek and had not demonstrated that his impairments significantly restricted the class of jobs or a broad range of jobs available to him was not disabled within the meaning of the Americans with Disabilities Act (ADA) because he was not "substantially" limited, according to the 4th U.S. Circuit Court of Appeals.

In 1989, Corning Inc. hired Michael Boitnott as a mechanical engineer. Like other Corning employees. Boitnott worked rotating 12-hour shifts (two weeks on days followed by two weeks on nights). Boitnott took several short-term medical leaves of absence between early 2002 and November 2003, when he began a more substantial leave related to leukemia.

In February 2004, Boitnott sought reinstatement because his medical release limited him to working no more than eight hours per day. The company denied reinstatement and kept him on leave Since Boitnott was capable of working a normal eight-hour day and 40-hour week. Corning took the position that he was not disabled under the ADA. In October 2004 Boitnott sought transfer to one of a limited number of day shift positions. However, these jobs were 10 hours per day plus some overtime, which conflicted with Boitnott's medical restrictions. Corning denied transfer on that basis. Corning again denied transfer in January 2005 when Boitnott was released to work 10 hours per day but not to work overtime. In April 2005, Boitnott was released to work 10 hours per day, plus moderate overtime. Although none of the 10-hour day shift positions were then available. Corning bargained with the union to create a new position, permitted Boitnott to bid on that position and awarded it to him in September 2005.

Boitnott filed a charge of discrimination with the U.S. Equal Employment Opportunity Commission (EEOC) alleging that Corning had failed to provide him with a reasonable accommodation following his February 2004 release with limitations. The EEOC found "reasonable cause" to believe Corning violated the ADA and issued a right-to-sue letter.

Boitnott filed a lawsuit in federal court, asserting that he was an individual with a disability who had been denied reasonable accommodation in violation of the ADA Corning denied the claims, arguing that Boitnott was not an individual with a disability because he "was physically able to work a normal 40-hour workweek and had not demonstrated that his impairments significantly restricted the class of jobs or a broad range of jobs available to him." The district court granted summary judgment to Corning.

Boitnott appealed, but the 4th Circuit affirmed the grant of summary judgment.   Under the ADA, a disability is defined as "a physical or mental impairment that substantially limits one or more major life activities of such Individual" (42 U.S.C §12102(1)(a)). While "major life activities' Include working, all federal circuit courts that have addressed this issue have held that an employee under the ADA is not "substantially" limited If he or she can handle a 40-hour workweek but is Incapable of performing overtime due to an impairment Numerous federal courts also have held that plaintiffs, in their particular cases, were unable to show that the inability to work overtime significantly restricted their ability to perform "a class of jobs or a broad range of jobs in various classes."

The 4th Circuit adopted the reasoning of the other federal courts it held that an inability to work overtime does not constitute a "substantial" limitation on a major life activity under the ADA. Moreover, the appellate court also found that the record contained no evidence that Boitnott's inability to work overtime "significantly restricted" his ability to perform a class of jobs or a broad range of jobs in various classes.

Boitnott v. Corning Incorporated. 4th Cir., No 10-1769 (Feb 10, 2012)

Professional Pointer: Although the statutory definition of disability was expanded by the Americans with Disabilities Amendments Act, it does have limits. This decision and a few other recent decisions have begun to identify the outer edges of the new definition.

Michael G. McClory is a shareholder with Bullard Smith Jernstedt Wilson, the Worklaw® Network member firm In Portland, Ore.