

Bipolar Disorder: Disability Discrimination Suit Dismissed.

The threshold requirement to sue for disability discrimination is having a disability as defined by law.

A person claiming a mental disability must show a substantial limitation of a major life activity due to the disabling mental condition.

An individual is not substantially limited in the major life activity of being able to work if only precluded from one specialized job, one type of job or from a particular job of choice.

An individual must be unable to work in a broad range of jobs to be seen as disabled.

Being able to work at the same or a comparable job for a different supervisor or employer means the individual does not have a disability.

Needing to be transferred away from a particular supervisor who aggravates an underlying psychiatric disorder, or who merely causes too much stress, is not considered a disability.

Guaranteeing an employee will be guarded from criticism from supervisors in general, or from a particular supervisor, is not reasonable accommodation.

UNITED STATES DISTRICT COURT
VIRGINIA
September 13, 2006

Following an on-the-job episode described as a panic attack or nervous breakdown, a patient care technician working in a dialysis facility was diagnosed with bipolar disorder.

The technician began taking time off for medical leaves authorized by her supervisors, but was eventually terminated for abandoning her position, that is, she did not return to work after all of the leave time allowed by the US Family and Medical Leave Act had been used up.

Lawsuit Alleged Failure to Offer Reasonable Accommodation

She sued for disability discrimination. The theme of her lawsuit was that she had a disability, bipolar disorder, and that the facility where she worked failed to provide reasonable accommodation to her disability. They refused to allow her to transfer to duties under a different supervisor who would not put her under so much stress.

The US District Court for the Eastern District of Virginia looked at the case from more than one angle and dismissed it as unfounded.

Inability to Do a Particular Job Is Not a Disability

As a general rule the inability to do just one particular job is not a disability. The technician was still able to work in direct patient care and admitted she could do exactly the same job if she just had a different supervisor. In the court's judgment that meant she was not disabled. Not being disabled, she had no right to sue for disability discrimination.

Employee Choosing Own Supervisor Is Not Reasonable Accommodation

Transfer to different duties or to a different physical environment may be necessary as reasonable accommodation to a disabled employee's needs.

However, according to the court, a change of supervisors to accommodate an employee's intolerance for stress is not something the law sees as reasonable accommodation to avoid charges of disability discrimination. Wiggins v. DaVita Tidewater, ___ F. Supp. 2d ___, 2006 WL 2662997 (E.D. Va., September 13, 2006).