

Job Change: No Age, Disability Discrimination.

For medical reasons a nurse asked to be transferred to a desk job from her job in the operating room which involved a substantial amount of time standing.

Her employer accommodated her request, but with a \$5.95 per hour pay reduction based on the facility's standard pay rates for pre-admission testing nurse versus perioperative nurse.

The Superior Court of New Jersey, Appellate Division, ruled that the facility committed no age or disability discrimination.

The key in any discrimination case is to look for comparisons between the alleged victim and other employees in similar situations or as similar as can be found, the court pointed out.

A younger, non-disabled nurse had the same job title as the alleged victim but received the same pay as an O.R. nurse. However, she actually spent most of her time on her feet in the operating room.

A younger, less senior nurse with the same job title and the same, mostly sedentary duties, actually earned \$5.00 per hour less than she, that is, \$10.95 less than the nurse in question had earned in the O.R. **Robinson v. C.A.R.E.S. Surgicenter, 2008 WL 1744410 (N.J. App., April 17, 2008).**