

Pregnancy Discrimination: All Employees Must Be Treated Equally Re Light-Duty Restrictions.

The US District Court for the Northern District of Mississippi refused to grant the employer's motion to dismiss a CNA's pregnancy discrimination lawsuit due to the fact critical disputed evidence was still unresolved.

The CNA had a note from her physician restricting her to light-duty patient care assignments.

Her supervisor told her the nursing home only honored employees' physicians' restrictions to light duty for medical conditions that resulted from on-the-job injuries.

Unable to work with her medical restriction, she took time off, her right under the US Family and Medical Leave Act, but was terminated when she could not return to full unrestricted duty after twelve weeks.

The US Pregnancy Discrimination Act requires employers to treat pregnant employees the same as other employees for all employment-related purposes.

An employer is not required to provide light duty to a pregnant direct-care worker.

An employer is allowed to reserve light-duty assignments only for employees with on-the-job injuries.

UNITED STATES DISTRICT COURT
MISSISSIPPI
January 13, 2009

The court stated in general terms that an employer does not commit discrimination if all employees, pregnant or not, are treated the same by a policy which reserves light duty only for those, pregnant or not, who have medical restrictions from on-the-job injuries.

The CNA was forced to admit in a pretrial deposition that five other pregnant CNA co-workers who got light duty did, in fact, have medical restrictions from on-the-job injuries.

The CNA claimed, however, that one CNA co-worker got light duty only because she was pregnant.

That fact alone would prove the CNA's case if true, but a supervisor denied it. A jury must decide whom to believe before the court can rule. **Long v. Rest Haven, 2009 WL 94504 (N.D. Miss., January 13, 2009).**