

Light Duty: Court Sees No Reason Not To Continue Reasonable Accommodation.

The aide was hired in 1988 in a six-hundred bed long term care facility.

She had two work-related knee injuries for which she got worker's compensation. After the second knee injury she was placed on a modified-duty program where she passed ice water, took and recorded temps, stripped and made beds, passed food trays, washed and shaved residents, but was not required to do heavy lifting.

After she had been on modified duty for thirteen years her employer, as a cost cutting measure, started a new policy limiting modified duty to six months maximum.

She was told to transition to regular duty or quit.

After thirteen years in the modified-duty nurses aide position without being required to do any lifting it is unclear why lifting ability suddenly could become an essential function of this employee's job.

UNITED STATES DISTRICT COURT
PENNSYLVANIA
February 14, 2011

The US District Court for the Western District of Pennsylvania noted for the record that the employer did not dispute that the aide was genuinely disabled.

The real issue was reasonable accommodation, whether this employee could fulfill the essential functions of her position as an aide even though disabled.

The employee's job description as defined by the employer is not the definitive answer to the question whether lifting is an essential function. After thirteen years of valuable service in modified duty status the Court was highly suspicious of the idea that the facility could not find a job for her with her medical restrictions. Zombeck v. Friendship Ridge, 2011 WL 666200 (W.D. Pa., February 14, 2011).