

Public Health: Nurse's Inability To Drive Is Not A Disability.

To sue for disability discrimination under the US Americans With Disabilities Act (ADA) an employee must be able to prove:

1.The employee is disabled;

2.The employee is otherwise qualified to perform the essential functions of the job with or without reasonable accommodation; and

3.The employer took adverse action against the employee because of the disability or failed to make reasonable accommodation.

The first step is to define the term disability as it is used in the ADA.

A disability is a physical or mental impairment that substantially limits one or more major life activities.

The Federal courts have ruled that driving, in and of itself, is not a major life activity. Many Americans choose not to drive and do not consider the quality of their lives diminished.

The ability to work, in general terms, is not affected by the inability to drive. There is a wide range of jobs in the workforce, and in the nursing field, that do not require the ability to drive.

UNITED STATES COURT OF APPEALS
SEVENTH CIRCUIT
April 22, 2009

A public health nurse worked for the county as a family case manager. Her job required her to drive to clients' homes to evaluate infants' health and developmental issues.

The nurse had a motor vehicle accident off the job. Her physical injuries did not require emergency medical attention.

However, she had to start going to a psychiatrist after she started having panic attacks and difficulty sleeping.

Her psychiatrist diagnosed post-traumatic stress disorder from the accident. He approved a three-week medical leave of absence. Then he released the nurse to return to work, but with only minimal work-related driving because she could have a full-scale panic attack merely getting into a car.

The nurse's supervisor let her work part-time in an office near her home for a few weeks, but then insisted she resume her field duties fully, that is, if she wanted to keep her Public Health Nurse job classification.

She was also offered the alternative of applying for demotion to a clinic staff nurse position if that was more compatible with her medical restrictions.

The result of several rounds of union grievances was that the nurse could not indefinitely retain her Public Health Nurse position and only work part-time in the office as she did right after returning from her medical leave of absence.

She left her job and sued the county for disability discrimination under the US Americans With Disabilities Act (ADA).

No Disability Discrimination

The US Court of Appeals for the Seventh Circuit ruled the county did not commit disability discrimination.

An accommodation granted gratuitously to an employee to temporarily overlook an essential requirement of the employee's job does not have to be continued on a permanent basis.

The inability to drive is not a disability as contemplated by the ADA. There is a broad range of jobs available in the general workforce and in nursing for persons who for one reason or another cannot drive. **Winsley v. Cook County, 563 F. 3d 598 (7th Cir., April 22, 2009).**