

HR Note To Self: Accommodate Obvious Disabilities

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A recent case out of Connecticut federal court serves as a fine reminder that a good dose of common sense can be indispensable for staying out of trouble under the Americans with Disabilities Act (ADA). In the case in question, a call center employee was a top performer, consistently receiving sterling performance evaluations and even a special award for outstanding service. Unfortunately, a car accident led to disabling spine, hip, elbow, shoulder, and knee injuries. The employee's performance suffered as her injuries made it very difficult to sit at her desk for prolonged periods. She told her employer this and asked for more non-telephone duties (e.g., training). Eventually, the employee's performance deteriorated to the point of termination. The question was not whether the employee was disabled, but whether the employer had a duty to accommodate her disabilities. The company admitted that it could have given the employee walking breaks, a different chair, or a standing desk, but stated that they never received a doctor's note specifying the inability to sit for long periods of time, nor did the employee specifically request any of the available accommodations. The court, however, sided with the plaintiff, finding that an employer has a duty to reasonably accommodate an obvious disability – meaning a disability that the employer knew or should have known about. In this case, when the employee disclosed her disabilities and limitations, the company should have engaged in the interactive process to determine whether an accommodation was reasonable. It did not do so. As a result, the case was allowed to proceed to a jury. The lesson for HR here is that if an employee is struggling with an obvious disability and something in the back of your head tells you “maybe we ought to try...” then you should likely try it or at least have a discussion about it – especially if it's as easy as giving someone a “walking break.”

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