Employers May Insist on Compliance with Medical Restrictions

By Shawe Rosenthal Posted December 28, 2018

This month, two separate federal appellate courts each held that an employer need not allow an employee to work in violation of medical restrictions imposed by a doctor.

In the first case, *Denson v. Steak 'n Shake, Inc.*, the U.S. Court of Appeals for the Eighth Circuit held that an employer was not required to allow an employee to perform the essential functions of the job in violation of his permanent medical restrictions, despite the employee's subjective belief that he was able to do so. The employee's job required him to stand, bend, stretch, walk, and lift and carry up to 30 pounds, but he was medically restricted to clerical or sedentary work with no lifting. The Eighth Circuit found that "[t]he [Americans with Disabilities Act] does not require an employer to permit an employee to perform a job function that the employee's physician has forbidden." Moreover, it further noted that, "an employee's subjective belief that he or she can perform the essential functions of the job is irrelevant."

In the second case, *Stanley v. BP Products North America, Inc.*, the employee suffered a severe stroke. After several months, he was released to work by his own doctor, but pursuant to the collective bargaining agreement, he needed to be evaluated and released by a company doctor. Based on remaining cognitive and physical issues, the company doctor refused to do so. The company doctor made unsuccessful several attempts to contact the employee's doctor to discuss the situation. The HR manager finally spoke with the assistant to the employee's doctor, and received a note with severe restrictions on the employee's physical activity and recommending long term disability benefits. The employee was approved for LTD benefits, but refused them because he did not believe he was disabled. Months later, the employee's doctor wrote another note stating that his last note was issued at the request of HR because the employee "was without funds," and that there was actually no restriction on the employee's ability to work. About a month after receiving this note, the employee was again examined by the company doctor and finally released to work. He sued under the Americans with Disabilities Act, arguing that the delay in reinstatement was due to disability discrimination.

The U.S. Court of Appeals for the Sixth Circuit rejected the employee's claim and found that the employer had relied on medical opinions from both the company's doctor and the employee's own doctor in initially refusing to reinstate the employee. Although the employee argued that the opinions were flawed, the court found that this argument had no merit unless the employer had reason to know of the flaws, noting that "an employer is generally correct to take doctors' restrictions 'at face value.'" Moreover, once the employer knew that there was a question about the note from the employee's doctor, it took action to have the employee reevaluated by its own doctor and returned the employee to work once both doctors had cleared him.

What these cases establish is that employers may reasonably rely on a doctor's opinion about an employee's medical restrictions over the employee's subjective belief that such restrictions do not apply. But be warned – the same principle does not apply in reverse. As we discussed in our August 2018 E-Update, if a doctor releases an employee without restrictions, the employer should not blindly insist on full performance if the employee still complains of physical restrictions, but should obtain further information from the doctor.