

ADA Case Note: Hurtt v. Int'l Servs., Inc.



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Employer who terminated salesperson who sought accommodation to address symptoms of temporary disability that impaired his ability to sleep violated ADA by retaliating against employee who sought accommodation in good faith.

Hurtt v. Int'l Servs., Inc., No. 14-1924 (6th Cir. Sept. 14, 2015).

Hurtt was a salesperson for International Services, Inc. ("ISI"). His work as a senior business analyst required him to travel extensively to various locations to provide consulting services for ISI customers. As a result of extensive traveling, Hurtt developed an upper respiratory infection as well as hypertension, depression, dizziness and a chronic cough, all of which was documented in notes from his doctors. To no avail, Hurtt sought an accommodation to lengthen the time between assignments and limit their duration so as to allow him to recuperate. Ultimately, following a request for leave under the Family and Medical Leave Act ("FMLA") that was processed by ISI, ISI downgraded Hurtt's employment profile and, he argued, constructively discharged him. Hurtt alleged, in part, that ISI had retaliated against him for seeking an accommodation under the Americans with Disabilities Act ("ADA"), but ISI succeeded on summary judgment. On appeal, the Sixth Circuit determined that Hurtt was entitled to pursue a retaliation claim, even though the court did not reach the question of whether his temporary condition would have qualified him as disabled so as to obtain protection under the ADA. Instead, the appellate court explained that the good faith request for an accommodation, even for albeit a temporary condition, was a protected act and that the employee had adduced sufficient evidence that he was retaliated against for making the request so as to withstand summary judgment. The Sixth Circuit noted that the correct inquiry was not whether the temporary conditions identified by Hurtt were sufficient to classify him as disabled under the ADA but whether Hurtt demonstrated that he made his accommodation request in good faith, that the requested accommodation was reasonable and that his employer had retaliated against him for engaging in such a protected act. Further, the appellate court found that ISI might also be liable for interfering with Hurtt's attempt to use his FMLA leave and reversed the grant of summary judgment on this claim as well.

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