

CAUTION: Schedule Changes for an Employee Already Accommodated Under the ADA Can Violate the Act

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Last month, the Northern District of Illinois recently ruled in *Isbell v. John Crane, Inc.*, that an Employer violated the Americans with Disabilities Act (“ADA” or “the Act”) when it unilaterally changed an Employee’s later start time as an accommodation for her difficulty functioning in early morning. For two years, the Employer granted the Employee a later start time to accommodate for her difficulty being able to work effectively until the Employee’s medication had an opportunity to take effect. The Employee was diagnosed with attention deficit and bipolar disorders.

Contrary to the Employer’s assertion, the Court found that there was no evidence that the Employee working at a later start time for two years posed undue hardship for the Employer. The Court cited to the fact that the job description did not specify a start time, and that the Employee had never been disciplined for poor performance when she arrived later which negated the Employer’s contention that the time-sensitive nature of her duties made early attendance an essential function. The Employer initially applied a uniform start time of 8:30 a.m. for all employees before changing the Employee’s start time to 9:15 a.m. The Court assessed whether it was reasonable for the Employer to withdraw an existing accommodation when the Employer changed the Employee’s early start time from 10:00 a.m. to 9:15 a.m. even though the Employer allowed a 30 minute grace period before imposing discipline. The Employee repeatedly arrived to work after 9:45 a.m. and was progressively disciplined for being tardy. The Employee was terminated for her inability to report to work in a timely manner, and the Employee sued the Employer for violating her rights under the ADA.

This case signals to employers that careful consideration must be given before they decide to alter an employee’s schedule after having already adjusted the employee’s schedule to accommodate a disability. Specifically, subsequent schedule changes must be reasonable and not violate the employee’s rights.

Isbell v. John Crane, Inc., 2014 BL 79549.

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