

EMPLOYER LAW BLOG

FMLA Worker Loses Claim on Technicality

AUTHOR: SANDBERG PHOENIX

By John Gilbert

Gilbert, John

On May 22, 2015, the U.S. Court of Appeals for the Third Circuit ruled in a case presenting an FMLA claim that a 14-hour hospital stay did not qualify as an “overnight” stay in order to provide the employee with protection under the FMLA.

The plaintiff employee suffered from several health conditions, including a heart condition. At the time in question, the employee experienced shortness of breath and chest pains during a meeting with his supervisors and was given permission to go home. Being short of breath, he was driven to the hospital around 11 p.m. on the night of November 14, 2011. The employee arrived at the hospital a few minutes before midnight but wasn’t admitted until shortly thereafter on November 15. He underwent testing which found no complications and was released on the evening of November 15 after spending 14 hours at the hospital.

On November 16 he was fired for walking off the job. Predictably, he sued asserting he was discharged in violation of his rights under the FMLA.

Under FMLA Regulations, a serious health condition is defined as an illness, injury, impairment or physical condition that involves either inpatient care in a hospital, hospice or residential medical care facility or continuing treatment by a healthcare provider. DOL Regulations provide that “Inpatient care means an overnight stay.” The Court of Appeals determined that the plaintiff’s stay in the hospital was not an overnight stay. The court adopted what it described as a bright-line test providing that an overnight stay is a stay from one calendar day to the next calendar day measured by the patient’s admission and discharge times, although, further provided the individual must stay for a substantial period of time. The court suggested without ruling that a minimum of eight hours seemed to be an appropriate time period but left the determination of that issue to another day.

This case points out the often technical interpretations required to apply the FMLA. It also creates an issue ripe for determination for the U.S. Supreme Court.

The general takeaway from this case is that employers need guidance for compliance with the FMLA and should consult with counsel.

Bonkowski v. Oberg Industries, Inc.

For more information on the Family Medical Leave Act, see our full archive of FMLA blog entries.