

Is air conditioning a required ADA accommodation?

Do some of your employees work in hot conditions? If those workers have heart conditions, they may be entitled to air conditioning as a “reasonable accommodation” under the Americans with Disabilities Act (ADA) ...

Case In Point: Charles Gribben worked as a UPS driver in Phoenix where he transferred trucks to various locations. He had a heart condition and his cardiologist requested that he only drive in trucks with air conditioning because of the local heat and his medical condition.

Most of the trucks he worked in were air conditioned, but UPS couldn’t guarantee him that accommodation. So it terminated Gribben.

Gribben sued UPS under the ADA for disability discrimination and retaliation. The ADA requires employers to offer reasonable accommodations to qualified disabled employees. An employee meets that test if he or she is “substantially limited in a major life activity” but can still do the essential functions of the job, with or without a reasonable accommodation.

UPS argued that although Gribben had a physical impairment that limited a major life activity, he failed to prove that he was “substantially” limited compared with the “average person in the general population.” UPS pointed to the fact that Gribben could walk and lift some weights. (*Gribben v. United Parcel Serv. Inc.*, 9th Cir., 6/16/08)

How did the case end ... and what lessons can be learned?

A lower court agreed with UPS and dismissed the case. But this month, the 9th Circuit appellate court reversed and sided with Gribben, saying that “comparative evidence” is not required under the ADA.

Gribben’s testimony alone about the effects of his heart condition on working in the heat, walking and lifting was sufficient to send the case to the jury, the court said. The jury will then decide whether he was “substantially limited” in a major life activity of working, and therefore covered by the ADA and that UPS’s failure to provide a reasonable accommodation was a violation of the law.

3 Lessons Learned ... Without Going to Court

1. Location, location, location. Consider location-sensitive issues, such as weather conditions, when granting or denying a reasonable accommodation. It’s unlikely that a jury will find it “reasonable” to put someone with a heart condition in an enclosed truck in 90-degree heat.

2. Be reasonable. The ADA is an employee-friendly law and the courts are only looking for employers to provide “reasonable accommodations,” not luxurious ones. An air conditioned truck is reasonable. Demanding that it be a Mercedes Benz would be unreasonable.

3. Have a heart. The workforce is aging and we’re seeing more employees with arthritis, diabetes, heart

conditions and obesity. That means the jury pool is aging, too. Juries have a heart and they show it with high verdicts. It's best to have a heart when employees first request reasonable accommodations than try and prove you have one to the jury.