

ADA: Minor complications following surgery don't add up to a disability

When someone has surgery or undergoes extensive medical treatment, it's fairly common to have temporary and lingering problems with energy levels, memory and general feelings of wellbeing. But these don't make the employee disabled under the ADA.

Recent case: Jean Marie worked for a pharmaceutical company, earning a salary over \$100,000 plus bonuses every year. She had a heart attack and underwent heart surgery. She recovered enough to return to work part time after taking 12 weeks of FMLA leave.

Her employer allowed a lighter schedule until her doctor cleared her for full-time work. Even then, she was allowed to work from home on occasions when she felt bad due to lingering heart problems.

She sued despite continuing to work because she thought her supervisors were piling on the work to make her life difficult. She also believed they viewed her differently after her heart attack.

Because she had to prove she was disabled, she argued that her heart condition affected her ability to work. She claimed to suffer from memory problems and that she no longer had as much stamina as before.

The court dismissed her case. It reasoned that her problems were minor, relatively common and not enough to make her disabled. (*Cunningham v. Novo Nordisk*, No. 12-6694, ED PA, 2014)

Final note: The employer did everything right in this case. It provided additional leave when Jean Marie needed it, let her work from home and continued to pay her salary and bonuses for work well done.