

Firefighter is Afraid of Fire: Is That an ADA-Covered Disability?



Some employees are afraid of hard work. Others are afraid of getting caught coming in late to work. However, such fears are not detrimental to an employee performing his or her job duties. But what if an employee has a fear of entering a burning building ... and that person is employed as firefighter? Is such a fear considered an Americans with Disabilities Act (ADA)-protected disability that must be accommodated?

Case in Point: Shayn Proler joined the Houston Fire Department as a fire fighter and was eventually promoted to captain of a fire suppression crew. On one occasion, a fellow firefighter accused him of failing to enter a burning building. He was reassigned to another position but eventually returned to the fire-fighting crew.

In a second, more serious incident, Proler arrived at a house fire but was unable to don his firefighting gear or take orders, and he had trouble walking.

He was diagnosed with having global transient amnesia, a sudden temporary loss of memory. Because he froze at two fires, Proler was transferred to the training academy. He wasn't happy about it and appealed the decision. Eventually, he sued under the ADA, saying the fire department regarded him as disabled and wrongly demoted him.

The result? A jury agreed with Proler and granted him \$362,000. But the fire department appealed.

This month, the Texas Supreme Court reversed the jury decision and tossed out the award. It said Proler didn't show he was "disabled" under the ADA, noting that an employee lacking the "mental, physical or experiential skill set" required to perform a job isn't necessarily disabled.

The court cited the example of pro basketball players: "The capacity to play professional basketball is an ability; the rest of us do not suffer from a disability because we cannot play at that level." (*City of Houston v. Proler*, 2014 BL 158266, 6/6/14)

3 lessons learned ... without going to court

1. **Not everything is a disability.** As the court wrote, a "job skill required for a specific job is not a disability if most people lack that skill." It said being reluctant "to charge into a burning building is not a mental impairment at all; it is the normal human response," which firefighters are required to overcome.
2. **But many things are.** Oh, the list under the ADAAA is very long. As [a recent Case in Point case](#) noted, that may even include an employee stealing from your organization.
3. **Do the "HR/Legal Huddle."** Get together with your attorney when issues like this arise. It will help you to prevent HR fires.