

Be careful rescinding offer after medical exam

Employers that withdraw a job offer following a pre-employment medical examination risk being sued for violations of the ADA and the Minnesota Human Rights Act (MHRA). An employee could argue that you rescinded the offer because you perceived that the applicant was disabled.

Counter that argument by being able to point to a specific task or set of tasks the exam showed would be impossible for the applicant to perform.

Recent case: James had been a heavy construction laborer for 20 years when he needed neck surgery. After the operation, he went back to construction work for several years without any apparent problems.

He received a conditional offer of employment with BNSF in Minnesota as a track laborer. It was a physically demanding job, involving laying railroad track and repairing it. James successfully completed a medical evaluation, which confirmed he had no work restrictions. However, it did document his prior surgery.

The railroad reviewed the results and concluded that James was not medically qualified for the job. It said the work would put James at risk of reinjuring his neck. BNSF withdrew the offer.

James sued. He claimed the railroad regarded him as disabled under the ADA and the MHRA, believing he could not perform the essential life function of working.

The railroad said at most, it had regarded James as being unable to perform a single, specific and limited type of job. It said neither the ADA nor the MHRA prohibits that kind of detailed distinction.

The court agreed and dismissed the case. If James had argued that the railroad believed he was unable to perform a wide range of jobs, he might have won. However, being unable to perform a single, specialized job doesn't make someone disabled. (*Wells v. BNSF Railway*, DC MN, 2017)