

Even some common injuries can be disabilities

Under the ADA, each worker's disability must be considered on an individualized basis. Thus, a condition that might not slow down one person may have a more profound effect on another, warranting a reasonable accommodation.

If a medical condition substantially impairs major life activities, then it counts as an ADA disability.

Recent case: Johnny did maintenance work on the grill and other equipment at a New York McDonald's. He has several medical conditions, including an inguinal hernia, which sometimes limits his ability to work, stand, squat and lift.

He occasionally needed accommodations while doing maintenance work, such as short breaks or time off for medical treatments. He did his job well.

After working at McDonald's for a little over a year, he took six weeks of FMLA leave for medical treatment. About a month after he returned to work, Johnny injured himself while performing freezer maintenance. He left to go to the emergency room, but returned to work the next day. That's when he was fired.

Johnny sued, alleging both FMLA and ADA violations. The McDonald's franchise alleged a hernia wasn't a disability.

After reviewing Johnny's restrictions, the court concluded that lifting, bending, squatting and standing were all essential life functions that Johnny's hernia limited. He was therefore disabled and protected from discrimination based on his disability. The court also said he had an FMLA retaliation claim, given the short time period between returning to work following his leave. His lawsuit will go to trial. (*Crosby v. McDonald's, et al.*, ND NY, 2018)