

Employee's disability doesn't give him a free pass to break rules



Disabled workers are entitled to reasonable accommodations so they can perform their jobs. They are also entitled to freedom from harassment based on their disability.

Neither of those protections means disabled workers can't be criticized or punished for workplace behavior that breaks the rules.

Recent case: Marcus, who has depression, worked as a facility coordinator until he was discharged for a variety of alleged performance shortcomings.

He sued, alleging among other claims that he had been targeted with a number of hostile acts because of his disability.

For example, he said a supervisor once banged loudly on his desk when he had fallen asleep at work. The supervisor took photos of Marcus sleeping and used them as evidence of rule-breaking at Marcus' termination hearing.

Marcus asserted that his depression medication made him sleepy and that he had been harassed because of the depression.

The court quickly dismissed that argument. Waking a sleeping worker by banging on his desk may have been abrupt and discourteous, but it wasn't obviously tied to Marcus's disability. (*Stinson v. New York, et al.*, SD NY, 2018)

Final note: Workers rarely win cases when they claim their disability made it impossible for them to obey common workplace rules. Someone with a sleep disorder may be entitled to reasonable accommodations such as later arrival times or more frequent breaks, but being allowed to sleep on the job probably isn't a reasonable accommodation.