

Obesity Is A Disability, Washington Supreme Court Rules

by Marina Lyons

The Washington Supreme Court yesterday ruled, for the first time in Washington, that obesity can be a disabling condition that protects workers from discrimination and requires accommodation.

Employee, Casey Taylor, sued his employer, BNSF Railway Company (“BNSF”), under the Washington Law Against Discrimination (“WLAD”) for refusing to hire him due to his perceived disability - obesity. BNSF moved for summary judgment, relying on federal cases which have held that obesity is not a disability under the WLAD unless it is caused by a separate, underlying physiological disorder. The district court agreed with BNSF and dismissed the case with prejudice.

Taylor appealed the district court’s decision, and the Ninth Circuit certified to the Washington Supreme Court the question of when obesity qualifies as a disabling condition under the WLAD. The Washington Supreme Court reasoned that because obesity is a physiological disorder that affects multiple body systems listed in the statute, it is always an impairment under the WLAD. The court further noted that the WLAD is broader than the Americans with Disabilities Act and offers its own independent protections to Washingtonians.

A unique fact in the Taylor case, however, was that Taylor’s offer of employment with BNSF was contingent on a physical exam. BNSF had a policy of not hiring people with BMIs exceeding 35, and the medical exam found that Taylor’s BMI was 41.3, which is considered morbidly obese. The court clarified that merely being overweight is not an impairment, but obesity is.

While the application process of most employers likely does not include a physical exam, employers should nevertheless be mindful of employees potentially suffering from medical obesity. Employees making discrimination claims need only show that their obesity is medically cognizable, exists as a record, or is simply perceived to exist by their employer. In reasonable accommodation cases, however, employees must show that

Related People

- Marina Lyons

Related Capabilities

- Labor & Employment
- Labor & Employment Guides

they actually suffer from obesity.

Accordingly, as with other recognized disabilities, employers should maintain an interactive dialogue with employees about accommodations and ways they could perform the job. It is also important to continue training human resources professionals and supervisors regarding employees' rights and employers' obligations under the WLAD and federal discrimination laws.