

Dealing with mental disabilities in the workplace

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These days, the news is filled with stories of returning veterans who suffer from posttraumatic stress disorder (PTSD) or other mental impairments and have problems adjusting to civilian life at home and in the workplace. The issues employers face when dealing with veterans and other employees with mental disorders were put on display by a recent Virginia case in which an Army veteran who suffers from PTSD sued his employer after he was fired for threatening to harm or kill other employees. The court's decision provides helpful lessons about handling employees with mental disorders, especially when employees have legal protections under the Americans with Disabilities Act (ADA) or the Uniformed Services Employment and Reemployment Rights Act (USERRA).

Background

Brandon Williamson, a U.S. Army veteran who suffers from PTSD and traumatic brain injury, was hired as an X-ray technician by Bon Secours Richmond Health System, Inc. Soon after he was hired, Williamson began having issues with absences and tardiness. After he was issued a written warning about the absences, he provided Bon Secours a doctor's note stating that he was receiving treatment for his mental disorders and that a routine schedule would benefit him significantly.

Before Bon Secours could set up a meeting to discuss Williamson's accommodation request, it learned that he had told coworkers that he wanted to harm or kill other staff members. The employer initiated an investigation, which confirmed that Williamson made numerous statements about "guns and explosives," viewed coworkers he disliked or

disagreed with as "the enemy," and stated that he "wanted to kill" certain employees.

Bon Secours concluded that Williamson was a threat to the safety of its employees and patients and terminated him. Williamson filed suit against Bon Secours in Richmond federal court, alleging that the employer discriminated against him because of his PTSD, which was related to his military service, in violation of the ADA and USERRA.

Court's decision

Bon Secours asked the court to dismiss the lawsuit, and the court agreed to do so. The court found that Bon Secours had a legitimate nondiscriminatory reason for terminating Williamson and that his repeated threats required his immediate termination to protect employees and patients. The court acknowledged that Williamson's PTSD could constitute a disability under the ADA. Nonetheless, the court concluded that his PTSD was not the reason for his termination. Rather, Bon Secours' decision to fire him was based on his threatening statements.

Also, the court found no evidence that Williamson's military service played a role in Bon Secours' decision to fire him. His threatening comments were often made in the context of his military service in Iraq and killing "the enemy." However, the court said that USERRA's "well-intentioned" protections for military servicemembers do not constitute a "get out of jail free" card or absolve misconduct that is related to an employee's military service.

Williamson v. Bon Secours Richmond Health System, Inc., No. 3:13cv704 (ED Va., July 28, 2014).

Bottom line

The fact that an employee has a mental disability or served in the military does not mean you cannot take appropriate disciplinary action when dealing with misconduct. The Equal Employment Opportunity Commission's (EEOC) Enforcement Guidance on the Americans with Disabilities Act and Psychiatric Disabilities specifically states that employers may discipline employees with mental disabilities for violating workplace conduct standards even if the misconduct is caused by a disability.

Additionally, you may set standards to maintain a safe workplace. According to the EEOC, the only caveat is that those standards must be "job-related and consistent with business necessity." Consult employment counsel to ensure that the conduct standards you have in your employee handbook or policy manual satisfy the EEOC's requirements.

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