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Jury Awards $450,000 For Employer's Termination of Employee After Receiving Notice About Anxiety Disorder

Law and the Workplace Blog on **May 23, 2022**

On March 31, 2022, a Kentucky jury unanimously awarded $450,000 to an employee, who was terminated following two panic attacks the employee suffered at work. The jury concluded the employee's anxiety disorder was a disability and that the employee suffered an adverse action because of his disability.

Brief Background

In *Berling v. Gravity Diagnostics, LLC*, No. 19-CI-01631 (Kenton County, Kentucky), the employee told his office manager a few days before his birthday that he did not want the office to host a birthday celebration for him due to his anxiety disorder; however, the office manager inadvertently did not relay the employee's request to the birthday party coordinator. On the day of the employee's birthday, he discovered a birthday party had been arranged for him in the break room, which triggered a panic attack that forced the employee to leave the office suddenly. The next day, the employee's supervisor and director of business operations confronted the employee about his reaction to the birthday party, where the employee began suffering from another panic attack and was sent home from work. Three days later, the employer terminated the employee, citing concerns that other employees had been frightened for their safety when the employee suffered the panic attacks.

The employee filed a disability discrimination lawsuit against his employer under KRS § 344.040, which prohibits employers from discharging an employee because the person is a qualified individual with a disability. The employee alleged, among other things, that his employer failed to reasonably accommodate his request to abstain from their usual practice of having birthday celebrations, and failed to reasonably accommodate his request that his supervisor stop confronting him about his reaction to the birthday celebration. The employee also alleged that his requests were ignored and that he was terminated on the basis of his disability. The employer argued that the employee could not demonstrate that he had a disability that substantially limited a major life activity, and that they had a legitimate, nondiscriminatory reason for his discharge (i.e., workplace concerns for other employees' safety).

Jury Verdict and Key Takeaways

After a two-day trial, the jury returned the verdict in favor of the employee, finding that the employee had a defined disability; that he was able to perform the essential functions of his job with or without reasonable accommodations; and that he suffered an adverse employment action because of his disability. The jury awarded $450,000, which included $120,000 in lost wages and benefits; $30,000 in future lost wages and benefits; and $300,000 for past, present, and future mental pain and anguish. The employee was also entitled to recover attorneys' fees and costs.

With an increase focus on mental health, employers may want to consider reviewing their policies and procedures to ensure there is enough coverage for mental health claims. Employers may also want to consider reviewing their training materials and processes for filing a claim to ensure compliance with all applicable federal and state laws.

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