

BRIEF

11th Cir.: Tyson worker with asthma, back pain failed to show ADA disability

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Dive Brief:

- A Tyson tray packer failed to show that her back pain and asthma were disabilities covered by the Americans with Disabilities Act (ADA) and that Tyson failed to reasonably accommodate those conditions, the 11th U.S. Circuit Court of Appeals determined (*Hudson v. Tyson Farms, Inc.*, No. 18-10476 (11th Cir. Apr. 29, 2019)).
- The employee's doctor found that her back was "normal" and released her to work with no restrictions, though he recommended that she use two floor mats and a stand at work. The mats and stands were spread out around the facility for employee use, but the employer said their availability could not be guaranteed. Later, when the employee was told to wait 10 minutes, until a scheduled break, before using her inhaler, she quit, alleging she was forced to resign because Tyson did not accommodate her back injury and asthma.
- The 11th Circuit found that neither the back injury nor the asthma limited the plaintiff as she alleged — in her ability to work. Additionally, even if the conditions were disabilities, the court said, Tyson did not fail to provide reasonable accommodation for the back injury (given the presence of stands and mats), and the employee never made a specific accommodation request related to her asthma. Accordingly, the

11th Circuit affirmed a district court's summary judgment ruling in favor of Tyson.

Dive Insight:

Prior to the passage of the ADA Amendments Act in 2008, employers spent a lot of time grappling with the definition of "disability" and whether a specific condition was covered under the ADA. Since the law deliberately widened the ADA's coverage, employers have shifted their focus to determining whether acts are discriminatory, rather than whether an employee has a disability, Thompson Hine Partner Nancy Barnes previously told HR Dive.

Tyson swam against that tide not only in this case, but also in a 2018 case involving an employee with an ankle injury; it prevailed both times. Notably, in *Hudson*, the employee alleged her impairments limited her ability to work, using one of the law's more difficult-to-prove "major life activities."

In general, experts say it's often cheaper, less time-consuming, and less legally fraught for employers to accommodate workers without undertaking an in-depth analysis of whether a condition meets the technical definition of "disability" under the ADA.

Jill Luft, an attorney with Greensfelder, Hemker & Gale, P.C., previously told HR Dive that employers should use good judgment when determining the necessity of medical documentation from an appropriate professional. If the disability and need for accommodation are clear — for example, an employee who uses a wheelchair is having difficulty navigating around a particular piece of equipment — the employer and the employee may well be able to negotiate a suitable accommodation on their own.