

## Seventh Circuit Declares ‘The ADA Is An Antidiscrimination Statute, Not A Medical Leave Entitlement’

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On September 20, the U.S. Court of Appeals for the Seventh Circuit clarified a question that many employers struggle with: Is an employee entitled to additional long-term leave under the Americans with Disabilities Act (ADA) after Family and Medical Leave Act (FMLA) leave expires? According to the Seventh Circuit, that answer is no when the leave requested spans multiple months. In [Severson v. Heartland Woodcraft, Inc.](#), Raymond Severson took a 12-week medical leave under the FMLA to deal with serious back pain. On the last day of his leave, he underwent back surgery and requested additional leave of at least two months. His employer denied his request and terminated his employment, but invited him to reapply when he was medically cleared to work. The Seventh Circuit held that the employer did not violate the ADA by refusing to grant Severson’s request for additional leave. The court reasoned that a reasonable accommodation under the ADA includes only those measures that enable the employee to work; accordingly, a long-term leave of absence cannot be a reasonable accommodation because it does not permit the employee to perform the essential functions of his job. In doing so, the court reaffirmed its prior holding in *Byrne v. Avon Prods., Inc.*, which provided that “an inability to do the job’s essential tasks means that one is not qualified; it does not mean that the employer must excuse the inability.” Although this case is a win for employers in the Seventh Circuit, the court left open the possibility that a request for additional leave in some instances may be a reasonable accommodation under the ADA. For example, the court noted “intermittent time off or a short leave of absence – say, a couple of days or even a couple of weeks” may be reasonable in some circumstances. Additionally, employers with operations outside of the Seventh Circuit should consider the holdings of courts within their jurisdiction(s), which may or may not agree with the Seventh Circuit’s recent findings.

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