

Classic Conundrum: Protecting Employees From Themselves

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Last week, the EEOC filed a lawsuit against a furniture company in North Carolina for firing a pregnant employee, allegedly because her job involved using potentially dangerous chemicals. According to the EEOC's regional attorney in Charlotte, North Carolina, "pregnant women have the right to make their own decisions about working while pregnant, including the risks they are willing to assume. Companies must not impose paternalistic notions on pregnant women, as doing so can result in unlawful discrimination." In the case filed against RTG Furniture Corp. of Georgia d/b/a Rooms to Go, the employee worked as a shop apprentice who used various chemicals to repair furniture, including a lacquer thinner. Apparently, the chemical included a label warning that its contents could pose a risk to pregnant women and their unborn children. The EEOC's lawsuit alleged that RTG – upon learning of the employee's pregnancy – advised the employee of the warning and then fired her. Although the Pregnancy Discrimination Act (PDA) (which amended Title VII of the Civil Rights Act of 1964) prohibits employers from discriminating due to pregnancy, it is understandable that employers want to protect its employees (and their children), and has an interest in minimizing its risks, too. But, according to the EEOC's Complaint against RTG, the employee reported that she had no restrictions that would have prevented her from working. Most employers are familiar with situations in which employees ignore their doctors' instructions, refuse to take prescribed medication to manage a medical condition, or appear to put themselves at risk. We recognize the employers' day-to-day balancing of multiple interests, including safety (OSHA), non-discrimination (Title VII and ADA), accommodations (PDA and ADA), as well as other workplace issues, including state and federal laws. When faced with these challenges, reliable medical evidence and interactive discussions with the employee might lead to a resolution outside of a courtroom. We might not ever know exactly what happened here, but we'll keep an eye on this particular case and keep you updated on any developments. The case is *Equal Employment Opportunity Commission v. RTG Furniture Corp. of Georgia d/b/a Rooms to Go*, U.S. District Court, Eastern District of North Carolina, Western Division, Case No. 5:16-cv-00663-BO.

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