

EEOC Files ADA Claim Against Employer Due To “No Fault” Attendance Policy

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On May 9, 2014, the EEOC filed a lawsuit in the U.S. District Court for the Northern District of Illinois against AutoZone Inc. for discrimination, retaliation and failure to accommodate under the Americans with Disabilities Act. The EEOC recently issued a [press release discussing this lawsuit](#). The EEOC alleges that AutoZone had a “no fault” attendance policy under which employees received points for absences, even if those absences occurred for reasons relating to disabilities. The EEOC also alleges that AutoZone failed to accommodate an employee with a back condition by allowing him to sit during portions of his shift, and failed to accommodate an employee with migraines by allowing her to work a schedule that minimized the headaches. These employees then missed work as a result of the alleged failures to accommodate, accrued attendance points and lost their jobs. The EEOC argues that these terminations constitute disability discrimination because there was no exception to the attendance policy for absences related to disabilities. The EEOC also alleges that one of the terminations was retaliation for the employee’s filing of a charge of discrimination. This is the fourth lawsuit the EEOC has brought against AutoZone for alleged violations of the ADA. The prior lawsuits focused mainly on alleged failures to accommodate. The present case is unique in that it challenges AutoZone’s no fault attendance policy. At this early stage, it is impossible to determine whether the EEOC’s allegations have merit. However, all employers should take note of the EEOC’s scrutiny of no-fault attendance policies as it may signal a new point of emphasis for the agency.

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