NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted November 20, 2024*
Decided November 20, 2024

Before

FRANK H. EASTERBROOK, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 24-1743

FIKRETA CENANOVIC,
Plaintiff-Appellant,

v.

HAMDARD CENTER FOR HEALTH AND HUMAN SERVICES,
Defendant-Appellee.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

No. 1:20-CV-07612

Edmond E. Chang,
Judge.

O R D E R

Fikreta Cenanovic injured her neck and back after falling at work. She was unable to return to work for several months, and during that time her role was eliminated due to restructuring. Her employer, Hamdard Center for Health and Human Services, did not offer her an alternative position and terminated her employment.

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

Cenanovic filed suit under the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101–12213, and Illinois law, alleging that Hamdard discriminated against her based on her disability and retaliated against her for claiming workers' compensation benefits. The district court granted Hamdard's motion for summary judgment. Because Cenanovic cannot show she is a qualified individual under the ADA or that Hamdard retaliated against her for claiming benefits, we affirm.

We recount the facts and draw all reasonable inferences in favor of Cenanovic, the non-moving party. *Mahran v. Advocate Christ Med. Ctr.*, 12 F.4th 708, 712 (7th Cir. 2021). Cenanovic began working for Hamdard in July 2009. Hamdard provides healthcare and support services to diverse communities in Chicago, and Cenanovic was hired as a case manager to develop individualized case plans, coordinate support services, and translate for Hamdard's Bosnian clients. For nine years, Cenanovic was a diligent and responsible employee.

On Friday, August 17, 2018, Cenanovic slipped and fell on a wet floor in Hamdard's basement resulting in injuries, including neck pain, back pain, headaches, numbness and tingling in her extremities. Because of her injuries, Cenanovic did not return to work the following Monday.

A few days later, she submitted the first of what would be a series of doctor's notes excusing her from work. On August 28, she filed a workers' compensation claim and began leave under the Family and Medical Leave Act (FMLA). Then, on September 4, Cenanovic submitted a second doctor's note requesting that she be excused from work through October 6. Her supervisors at Hamdard responded a week later through their workers' compensation insurers, Travelers Insurance. Travelers faxed a modified work form to Cenanovic's attorney, Jennifer Robinson. The form detailed work that Hamdard considered "light duty," but Cenanovic's physicians never signed the form or otherwise detailed conditions under which Cenanovic could return to work.

On October 1, a supervisor from Hamdard left a voicemail for Cenanovic asking if she would return to work the following week as scheduled. Cenanovic responded with a third doctor's note asking that she be excused from work for an additional month—through November 7. In an email to Cenanovic on October 19, Hamdard supervisors acknowledged receipt of the third doctor's note, noted that "light duty work has been offered to [her]," and informed Cenanovic that her FMLA leave would expire on November 12. That same day, the supervisors at Hamdard emailed Cenanovic's case manager at Travelers Insurance to say that if Cenanovic were to

submit a fourth doctor's note excusing her beyond the expiration of her protected leave, her "position will be filled."

But on November 8, Cenanovic did submit a fourth doctor's note excusing her from work through December 12, and she did not return to work when her FMLA leave expired on November 12. On November 14, a supervisor from Hamdard reached out to Travelers Insurance and asked if Cenanovic communicated any plans to return to work, but the case manager had not heard anything. On November 27, Cenanovic submitted a fifth doctor's note excusing her from work for an additional four weeks and explaining that Cenanovic's work status would be discussed when the four weeks were up.

Three days later, on November 30, Hamdard informed Cenanovic that it was ending her employment because it was eliminating the case-manager position under a new organizational structure. Before receiving her termination letter, Cenanovic had not been told that a reorganization would affect her position. While Hamdard trained other employees who held Cenanovic's same position for new roles under the restructuring plan, Cenanovic had not been at work and had not been cleared by her doctor to complete the required training for such a transition. (Hamdard admits that, if Cenanovic had been at work, she could have completed the training and transitioned.) Six months after Cenanovic was fired, in May 2019, her physician cleared her to return to work.

Cenanovic filed this suit in December 2020 after receiving a right-to-sue letter from the Equal Employment Opportunity Commission. Cenanovic alleged that Hamdard violated the ADA by failing to accommodate her disability and subjecting her to disparate treatment because of it. She also brought a claim under Illinois common law alleging that Hamdard fired her in retaliation for accessing her workers' compensation benefits. *See Kelsay v. Motorola, Inc.*, 384 N.E.2d 353, 357 (Ill. 1978).

The defendants moved for summary judgment, arguing that Cenanovic was not a qualified individual under the ADA because her repeated requests for leave demonstrated that she was not able to work at all. Moreover, Hamdard argued that it did not terminate Cenanovic because she claimed workers' compensation benefits. Rather, she was fired because her position was eliminated during the restructuring and Cenanovic was unable to return to work to train for a new position. Cenanovic responded that Hamdard failed to participate in an interactive process that would have generated a reasonable accommodation enabling her to work, violated her rights under

the ADA by failing to offer her a new position after the restructuring, and provided a pretextual reason for firing her.

The district court entered summary judgment for Hamdard, concluding that Cenanovic's prolonged leave from work meant that no reasonable jury could find that she was a qualified individual under the ADA. The court then exercised its discretion to retain jurisdiction over the state-law retaliation claim, *Timm v. Mead Corp.*, 32 F.3d 273, 276–77 (7th Cir. 1994), and determined that Cenanovic could not show that Hamdard had retaliated against her.

Cenanovic appeals. We review the summary judgment decision de novo. *Stelter v. Wis. Physicians Serv. Ins. Corp.*, 950 F.3d 488, 490 (7th Cir. 2020).

Cenanovic argues that the district court erred when it concluded that she was not a "qualified individual" under the ADA. To establish that she is a "qualified individual," Cenanovic must show that she has the requisite skills and experience and that she is able to perform the essential functions of the job with or without accommodation. 42 U.S.C. § 12111(8); *Nowak v. St. Rita High Sch.*, 142 F.3d 999, 1002–03 (7th Cir. 1998). Cenanovic argues that she had the requisite skills and training for a new position under Hamdard's restructuring plan. Further, she maintains that despite her injuries, there were functions of her job, such as translation, that she "was and is" able to perform. She faults Hamdard for failing to engage in an interactive process that would have identified a reasonable accommodation that allowed her to maintain her employment.

We see no error. First, Hamdard did engage in the interactive process by faxing Cenanovic's lawyer a modified work form, which solicited Cenanovic's suggestions for a reasonable accommodation. *See Mays v. Principi*, 301 F.3d 866, 870 (7th Cir. 2002), *abrogated on other grounds by E.E.O.C. v. United Airlines, Inc.*, 693 F.3d 760 (7th Cir. 2012). Cenanovic argues that this was not an actual offer for modified duty because it was not accompanied by a physician's opinion detailing the work Cenanovic could perform. But it was Cenanovic's doctors who failed to sign off on the form or otherwise respond, making her responsible for the breakdown in the interactive process. *See Beck v. Univ. of Wis. Bd. of Regents*, 75 F.3d 1130, 1135 (7th Cir. 1996). Cenanovic insists that she had no knowledge of the form, but this contention is unavailing. She does not dispute that her attorney received the form and, at any rate, Cenanovic was notified of the form by an email from her supervisor at Hamdard.

Even if Hamdard had not attempted to engage Cenanovic at all, a failure to engage in the interactive process alone is not a basis for liability. *McAllister v. Innovation Ventures, LLC*, 983 F.3d 963, 972 (7th Cir. 2020). It is actionable only if it prevents the identification of an appropriate accommodation for a qualified individual. *Id*. Being a qualified individual is an element of both a failure-to-accommodate and disparate-treatment claim under the ADA. *Sieberns v. Wal-Mart Stores, Inc.*, 125 F.3d 1019, 1022 (7th Cir. 1997). Before Cenanovic was fired, her doctor repeatedly excused her from all work for a period exceeding four months. By the time her doctor mentioned that Cenanovic could, after another month of leave, engage in conversations about a potential (not promised) return, Cenanovic's FMLA leave had expired. And Cenanovic was not cleared to perform even sedentary work for several months after that note was submitted. An individual who requires a long-term leave of absence like the one here is not a qualified individual under the ADA. *See Severson v. Heartland Woodcraft, Inc.*, 872 F.3d 476, 481 (7th Cir. 2017); *Byrne v. Avon Prods., Inc.*, 328 F.3d 379, 381 (7th Cir. 2003). Although Cenanovic had the requisite skills to be trained for a new position at Hamdard, her inability to work for a prolonged period removed her from the class of "qualified individuals" protected by the ADA. *McAllister*, 983 F.3d at 971.

Cenanovic next argues that the district court erred in entering summary judgment on her claim under Illinois law that Hamdard retaliated against her for filing a workers' compensation claim. We disagree.

Under Illinois law, to prevail on a claim of retaliatory-discharge, Cenanovic would need to present some affirmative evidence from which a reasonable jury could conclude that that her filing of a workers' compensation claim was the cause of her termination from Hamdard. *Hillmann v. City of Chicago*, 834 F.3d 787, 794 (7th Cir. 2016); *see also Gacek v. Am. Airlines, Inc.*, 614 F.3d 298, 303 (7th Cir. 2010). Illinois has rejected the use of the burden-shifting framework in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802–03 (1973), for evaluating claims of retaliatory discharge. *Gacek*, 614 F.3d at 300; *see also Clemons v. Mech. Devices Co.*, 704 N.E.2d 403, 407–08 (Ill. 1998). Indeed, without some evidence that her termination was motivated by the filing of her workers' compensation claim, Cenanovic's claim cannot survive summary judgment. *See Reid v. Neighborhood Assistance Corp. of Am.*, 749 F.3d 581, 587 (7th Cir. 2014). Moreover, the causation element is not met where the employer offers a valid, nonpretextual reason for the termination. *Clemons*, 704 N.E.2d at 406.

Here, Cenanovic provided no evidence from which a reasonable jury could conclude that Hamdard fired her because she filed a workers' compensation claim.

Cenanovic filed her claim three months before she was terminated. In the intervening months, Cenanovic could not perform any work. And Hamdard offered a valid, nonpretextual reason for firing Cenanovic—it eliminated all case-manager positions at the company, including the position Cenanovic held. Although Hamdard trained other case managers to take on new roles within the company, Cenanovic's absence from work prevented her participating in any training. Hamdard's reasons for firing Cenanovic have not shifted. Under these circumstances, an inference of retaliatory intent is not reasonable.

AFFIRMED