

**IN THE COURT OF APPEALS OF IOWA**

No. 6-437 / 05-1883  
Filed November 16, 2006

**STACY MICHAEL JACKSON,**  
Plaintiff-Appellant,

**vs.**

**BOSSARD IIP, INC.,**  
Defendant-Appellee.

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Appeal from the Iowa District Court for Black Hawk County, Jon Fister,  
Judge.

Stacy Michael Jackson appeals the district court's summary judgment  
ruling dismissing his disability discrimination claim against Bossard IIP, Inc.

**AFFIRMED.**

John Rausch of Rausch Law Firm, Waterloo, for appellant.

Kevin Driscoll of Finley, Alt, Smith, Scharnberg, Craig, Hilmes & Gaffney,  
P.C., Des Moines, for appellee.

Heard by Huitink, P.J., Vogel, J., and Beeghly, S.J.\*

\*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2005).

**HUITINK, P.J.**

***I. Background Facts & Proceedings.***

After receiving the requisite administrative release from the Iowa Civil Rights Commission, Stacy Jackson sued Bossard IIP, Inc., claiming disability discrimination in violation of the Iowa Civil Rights Act (ICRA). More specifically, Jackson claimed he was fired from his employment at Bossard because of the disabling effects of narcolepsy, a medical condition for which he had been diagnosed and treated at the time he was fired.

Bossard admitted Jackson was fired for sleeping on the job. Bossard, however, affirmatively alleged Jackson was not disabled and that his termination was not the result of any discriminatory intent.

Bossard subsequently moved for summary judgment, arguing Jackson was not disabled within the meaning of ICRA. The trial court determined Jackson was, as a matter of law, unable to prove he was disabled and dismissed Jackson's lawsuit against Bossard.

On appeal Jackson raises the following issues:

- I. District court erred in ruling plaintiff's narcolepsy was not covered under ADA as plaintiff's narcolepsy substantially limited him from performing both a class of jobs and a broad range of jobs in various classes.
- II. Was Mr. Jackson perceived as disabled?

***II. Standard of Review.***

We review the district court's summary judgment ruling for the correction of errors at law. Iowa R. App. P. 6.4.

### **III. Merits.**

The ICRA generally prohibits an employer from discriminating against a qualified person because of a disability. Iowa Code § 216.6(1) (2003); see *Casey's Gen. Stores, Inc. v. Blackford*, 661 N.W.2d 515, 519 (Iowa 2003). Iowa Code section 216.6(1)(a) (formerly section 601A.6) states:

It shall be an unfair or discriminatory practice for any:

a. Person . . . to discharge any employee . . . because of the . . . disability of such . . . employee, unless based upon the nature of the occupation. If a person with a disability is qualified to perform a particular occupation, by reason of training or experience, the nature of that occupation shall not be the basis for exception to the unfair or discriminating practices prohibited by this subsection.

“This statute, however, only pronounces a general proscription against discrimination and we have looked to the corresponding federal statutes to help establish the framework to analyze claims and otherwise apply our statute.” *Casey's Gen. Stores, Inc.*, 661 N.W.2d at 519. The elements of a case of disability discrimination under Iowa law require that “he or she (1) has a disability; (2) was qualified for the position; and (3) was discharged because of his or her disability.” *Boelman v. Manson State Bank*, 522 N.W.2d 73, 79 (Iowa 1994). Accordingly, a *prima facie* case for establishing disability discrimination requires:

(1) that the employee belongs to a protected group; (2) that the employee was qualified to retain the job; (3) that the employee was terminated; and (4) it is more likely than not that the termination was based on impermissible considerations.

*Schwarz v. Northwest Iowa Comty. Coll.*, 881 F. Supp. 1323, 1341-42 (N.D. Iowa 1995). A disabled person is defined as “any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.”

Iowa Admin. Code r. 161-8.26(1) (2004); *Probasco v. Iowa Civil Rights Comm'n*, 420 N.W.2d 432, 434 (Iowa 1988).

Although the impairment must significantly decrease the plaintiff's ability to obtain satisfactory employment otherwise, the plaintiff need not be almost unemployable because of [the plaintiff's] impairment to be considered disabled. Rather, the plaintiff's disability must limit one or more of the plaintiff's "major life activities" which has been defined in 161 Iowa Admin. Code § 8.26(3) as including "caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working." Additionally, the impairment must "disqualif[y] [the employee] from a wide range of other available jobs."

*Schwarz*, 881 F. Supp. at 1342 (citations omitted).

The trial court's summary judgment ruling states:

Because there is no genuine dispute that Plaintiff's narcolepsy has not substantially limited him from performing either a class of jobs or a broad range of jobs in various classes, he is simply not a disabled person under the ADA. His meaningful opportunities for employment have not been and are not limited. His expertise, background, and relevant skills involve sales and management and his narcolepsy has never limited his ability to perform those jobs, substantially or otherwise. For these reasons he may have an illness which causes him to occasionally doze off when he is inactive, but this particular job was not a significant part of his relevant job history given the jobs he has expertise in and has performed both before and after this particular job. His narcolepsy has never before nor since been a significant barrier to his employment.

We agree. The summary judgment record indicates Jackson held several other sales related positions with Bossard prior to his assignment as ISO coordinator. All were "desk jobs" he successfully performed without any narcolepsy related limitations. The record also indicates Jackson is able to perform his current job duties as a department manager at Hometown Foods without any narcolepsy related limitations. Moreover, Jackson concedes in his deposition that he can perform a broad range of jobs that do not cause him to fall asleep.

We also note deposition testimony by Dr. Kent Miller, Jackson's treating physician, that Jackson is not disabled. Dr. Miller also testified that Jackson's mild narcolepsy does not significantly restrict his ability to work in a broad range of other jobs. We, like the trial court, conclude Jackson cannot, as a matter of law, establish that his mild narcolepsy substantially limits his ability to work. Lastly, for the same reasons cited by the trial court, we reject Jackson's claim that Bossard perceived him as disabled. The record indicates Jackson was fired because he was sleeping on the job, not because of any established disability related to mild narcolepsy.

The district court's ruling granting summary judgment is therefore affirmed.

**AFFIRMED.**