

JES/Genie Temps to Pay \$80,000 to Settle EEOC Disability Discrimination Suit

Article By:

U.S. Equal Employment Opportunity Commission

Temp Agency Effectively Terminated Employee Because of Epilepsy, Federal Agency Charged

CHICAGO – JES Personnel Consultants, Inc., doing business as Genie Temporary Service, will pay \$80,000 to settle a disability discrimination lawsuit brought by the U.S. Equal Employment Opportunity Commission (EEOC), the agency announced today. The EEOC had charged that JES unlawfully refused to allow an employee to return to work because of his epilepsy. Genie is a temporary service agency with an office in LaSalle, Ill., that supplies employees to various client employers.

Based upon an administrative investigation managed by EEOC Chicago District Director John Rowe, JES placed the employee with Clover Technologies Group, LLC, where he unpacked and sorted ink cartridges. After he had a brief epileptic seizure on his first day of work, according to Rowe, Clover allowed him to work the rest of the day, but asked him to provide a note from his doctor authorizing him to return to work after that. The EEOC said that the employee provided the note to Genie the next day, and Genie neither advised him that the note was inadequate nor forwarded the note to Clover, but the employee was not permitted to return and was effectively terminated.

Disability discrimination violates the Americans with Disabilities Act (ADA). The EEOC filed suit on July 28, 2011 in U.S. District Court for the Northern District of Illinois, Eastern Division after first attempting to reach a pre-litigation settlement through its conciliation process. After the suit was filed, the employee intervened in the case. (*EEOC v. JES Personnel Consultants, Inc., d/b/a Genie Temporary Service*, N.D. Ill. No. 11 C 5117).

The consent decree settling the suit, entered by Magistrate Judge Schenkier on Aug. 9, requires JES to pay \$80,000 to the worker and his attorney.

JES recently advised the court that it was going out of business. As a result, the decree provides that if JES, or its president and owner, reestablishes an employment agency, then the reestablished business shall adopt a policy to comply with the ADA. That policy, at a minimum, will (1) establish a procedure for a disabled employee to ask for an accommodation; (2) provide that if an employee seeks to return to work from a medical leave, JES may only require a medical exam if it is job-

related and consistent with business necessity; and (3) provide that if JES receives a doctor's authorization for a disabled employee to return to work and decides that the authorization is not adequate, it will advise the employee of the reasons for its decision.

"This case should be a reminder that employment agencies have obligations to comply with federal law against disability discrimination," said the EEOC's regional attorney for the Chicago District Office, John Hendrickson.

EEOC Supervisory Attorney Gregory Gochanour said, "Employment agencies need to promptly advise their employees if they conclude that a medical authorization does not present sufficient evidence that the employee is qualified to work. That would then allow the employee to seek further information from his or her doctor."

The EEOC's senior trial attorney assigned to the case, Gordon Waldron, said that the parties' agreement to enter into the consent decree resolved the case without the delay of further pre-trial discovery and trial.

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