

Louisiana Court Upholds Discharge of Worker With a Pregnancy-Related Illness Who Violated a Company Rule

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The Louisiana Court of Appeal, Fourth Circuit recently held that a pregnant employee who suffered from a pregnancy-related illness was not disabled within the scope and meaning of the Louisiana Employment Discrimination Law (LEDL). According to the court, the employee had failed to establish that her illness qualified as a disability under state law. [*Brown v. The Blood Center, No. 2017-CA-0750 \(March 15, 2018\)*](#).

Background

Shameka Brown worked as a supervisor for The Blood Center (TBC). On August 9, 2014, Brown, who at the time was approximately seven months pregnant, was working as the on-duty supervisor at a mobile blood donation center. During her shift, Brown began feeling ill, and she vomited and urinated on herself. Without notifying her supervisor, Brown left work and went home to shower and change. Brown conceded she did not notify her supervisor of her emergency or that she needed to leave work before she left. Instead, she claimed she told a coworker of her departure. Two hours after her departure, Brown called her immediate supervisor, Antonio White, and communicated what had transpired. Following the conversation with White, Brown returned to work and completed her shift.

TBC terminated Brown's employment for abandoning her post without first providing proper notification to her supervisor in violation of TBC policy. TBC's policy provided that leaving a work station while on duty without first obtaining permission from one's supervisor is cause for immediate dismissal. Brown did not dispute being aware of this policy, nor did she dispute that she left the TBC facility without her supervisor's permission.

TBC explained that it decided to terminate Brown's employment because at or about 2:30 p.m., its marketing manager, Jerry Himel, visited the mobile blood donation center where Brown was assigned to work and found the "bleeding area" empty and unattended with five donors waiting to give blood. Upon questioning the staff present, Himel was informed that Brown had left her post at or about 1:00 p.m. due to an illness. Himel contacted Brown's immediate supervisor, White, to communicate the problem. Then, after speaking with Himel, White received a phone call from Brown communicating she had left work. Brown then returned to work. Brown did not dispute TBC's account.

Brown filed suit against TBC asserting claims for damages under the LEDL and the Louisiana Pregnancy Discrimination Act (LPDA). Brown alleged that TBC discriminated against her because of a disability and/or pregnancy-related condition by wrongfully terminating her employment when, due to her pregnancy, she suffered from a medical emergency that caused her to temporarily leave work.

During his deposition, White testified that during the call with Brown, Brown never provided any details of her illness other than to say she left work because she felt ill. White further explained that Brown acknowledged that she was aware that the blood center was busy and stated that she could not return to work because she was not wearing her uniform.

After conducting discovery, TBC moved for summary judgment. The trial court denied the motion but advised TBC it could re-urge the motion after Brown had deposed a TBC representative regarding the work rule she had allegedly violated. On February 8, 2017, TBC moved again to summarily dismiss the claims and, on May 4, 2017, the trial court granted summary judgment to TBC, dismissing all of Brown's claims with prejudice. Brown appealed the trial court's grant of TBC's motion for summary judgment.

The Louisiana Fourth Circuit's Decision and Analysis

On appeal, the Fourth Circuit affirmed the trial court's decision to dismiss Brown's disability and pregnancy discrimination claims against TBC. With respect to her disability discrimination claim, the court explained that Brown failed to establish she suffered from a disability under the LEDL. The court began by pointing out that while Brown generally alleged she was experiencing a difficult pregnancy, the sole allegation she had put forth in support of her disability claim was that, on the day in question, she had been unable to stay at work because of a pregnancy-related illness. As a result, the court agreed with the trial court's conclusion that Brown had failed to establish that she suffered from a disability under the LEDL.

In reaching its decision, the court rejected Brown's attempt to overturn the trial court's holding by arguing that the LPDA's definition and language, as set forth under La. R.S. 23:341(B)(1), was applicable to her pregnancy-related LEDL disability claim. Specifically, Brown argued that because under La. R.S. 23:341(B)(1), the definition of disability sets forth that "pregnancy . . . related medical conditions are treated as any other temporary disability," the trial court erred in finding she had failed to establish that she suffered from a disability. The court rejected Brown's argument, explaining that because La. R.S. 23:341(B)(1) begins with the words "[f]or purposes of this Part," the LPDA's language defining pregnancy as a disability was not applicable to her LEDL claim.

The court additionally noted that even if Brown had established that TBC considered her disabled, her LEDL claim would still fail as she could not show that her employment had been terminated "solely because of" any alleged disability.

As to the pregnancy discrimination claim, the court held that because Brown could not establish pretext, her pregnancy discrimination claim failed. The court explained that because Brown did not dispute TBC's rationale for discharging her, she could not possibly establish that her employment was terminated because she was pregnant or because she suffered from a pregnancy-related illness.

Key Takeaways

While state courts have tended to be more broad-minded in construing state discrimination claims despite the fact that state laws generally tend to mirror their federal counterparts, the court

in *Brown* did just the opposite, applying a narrow interpretation of the LEDL and LPDA. Still, *Brown* serves as a reminder to Louisiana employers that they may want to be cognizant that under both the LPDA and the Americans with Disabilities Act Amendments Act of 2008, pregnant workers may have impairments arising from their pregnancies that qualify as disabilities. Employers may also want to keep in mind that pursuant to *Young v. United Parcel Service, Inc.*, No. 12-1226 (Supreme Court of the United States, 2015), a plaintiff could potentially establish pretext by demonstrating that an employer's policy imposes a "significant burden" on pregnant workers without a "sufficiently strong" justification. *Brown* also highlights that employers may want to take action to ensure that their attendance and notification policies are crafted properly and enforced uniformly.

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National Law Review, Volume VIII, Number 99

Source URL: <https://natlawreview.com/article/louisiana-court-upholds-discharge-worker-pregnancy-related-illness-who-violated>