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EEOC Sues Hirschbach Motor Lines For Disability Discrimination

by U.S. Equal Employment Opportunity Commission (EEOC)

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National Trucking Company Used "Back Assessment" to Screen Out Job Applicants It Regarded as Disabled, Federal Agency Charges

PORTLAND, Maine - Hirschbach Motor Lines, Inc. violated federal law by using a pre-employment "back assessment" to screen out and reject job applicants it regarded as disabled for truck-driving positions in violation of the Americans with Disabilities Act ("ADA"), the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit filed today.

According to the EEOC's complaint, the "back assessment" tested, among other things, an applicant's ability to balance and stand on one leg, touch their toes while standing on one leg, and crawl. Hirschbach used the assessment to identify and screen out job candidates with pre-existing injuries and/or medical conditions who had received conditional offers of employment. It did so even though the applicants had already received their Department of Transportation medical certifications authorizing them to drive a truck.

The EEOC also said Hirschbach maintains a policy prohibiting employment of applicants who have an injury or impairment from working until they are fully recovered.

Such alleged conduct violates the Americans with Disabilities Act, which prohibits employers from discriminating based on disability and imposing qualification standards that screen out or tend to screen out individuals with disabilities unless the standard is shown to be job-related for the position and consistent with business necessity. The ADA also requires employers to provide reasonable accommodation, unless it causes an undue hardship to the employer.

The EEOC filed suit in U.S. District Court for the District of Maine (Hirschbach Motor Lines, Civil Action No. 2:18-cv-00175-GZS) after first attempting to reach a pre-litigation settlement.

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settlement through its conciliation process. The EEOC seeks back pay, compensatory and punitive damages, and injunctive relief.

"Federal law prohibits employers from using standards or tests that tend to screen out the disabled or those applicants the employer regards as disabled," said Jeffrey Burstein, regional attorney for the EEOC's New York District Office. "Hirschbach's back assessment was unnecessary to assess the ability of the applicants to perform the job, and was an unlawful standard."

EEOC's New York District Director Kevin Berry said, "Employers cannot refuse to offer a reasonable accommodation required by law unless it causes an undue hardship. Hirschbach's '100% free of restrictions' policy violated this requirement."

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