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Twin River Casino Beats Suit by Worker Over Nonsmoking Section

By Patrick Dorrian

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 - Didn't explain why, ending accommodation process
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By Patrick Dorrian 2022-11-17T16:21:42000-05:00

1. Declined offer by employer to switch to swing shift
2. Didn't explain why, ending accommodation process

A Rhode Island casino floor supervisor who was fired after seeking reassignment to a nonsmoking section to accommodate his migraine headaches lost his job discrimination claims.

Brian Ingraham lacked evidence that UTGR Inc., operating as Twin River Casino, violated his rights under the Family and Medical Leave Act or state medical leave and disability bias laws, the US District Court for the District of Rhode Island said. Ingraham worked at the Lincoln, R.I., casino for more than two years and was still having lingering migraines when he returned to the gambling pit from three months' FMLA leave following a car accident, the court said.

He told his supervisor about five months after he returned that he couldn't work in a smoking section anymore, citing his migraines and producing a doctor's note. But there were no exclusively nonsmoking-section floor supervisor jobs open on Ingraham's usual day shift, so the supervisor offered Ingraham reassignment to the swing shift, which included night-time hours, the court said. Citing "family obligations," Ingraham rejected that offer and was fired.

His disability-based claims failed because he didn't show he was denied a reasonable accommodation, Judge Mary S. McElroy said Wednesday.

"UTGR was under no obligation to create a vacancy, or design a new job, on the day shift" for Ingraham, the judge said. And Ingraham wasn't qualified for a transfer to a poker table UTGR's explanation that it didn't want to retrain him because of Ingraham's spotty attendance record was "a reasonable business decision," McElroy said.

His failure to explain why he couldn't accept a swing shift caused the breakdown in the interactive accommodation process, the court said. He testified at deposition that he had two teenagers and his spouse left for work at 3 a.m., but he never told UTGR that, which "foreclosed the possibility" that UTGR could have offered modified swing-shift hours, the court said. And Ingraham rejected the swing shift out of hand, without determining if he could make alternate childcare arrangements, it said.

Ingraham also couldn't show UTGR's explanations that he was fired for accruing too many attendance demerits and because he declared he couldn't work in a smoking area anymore yet then declined to switch shifts were pretexts for discrimination, McElroy said.

The five months between Ingraham's return from leave and his discharge was too long to show a causal link, the judge said, granting UTGR summary judgment on the leave bias claims as well.

V. Edward Formisano of Cranston, R.I., represented Ingraham. Adler Pollock & Sheehan PC represented UTGR.

The case is *Ingraham v. UTGR, Inc.*, 2022 BL 409733, D.R.I., No. 1:19-cv-00626, 11/16/22.

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Documents

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