

Study case: Security at work (epilepsy and employment rights)

HOMEWORK

An applicant with epilepsy applies for job with a civil engineering firm.

- **Can the employer reject the applicant simply because he has epilepsy and will be required to work at heights?**
- **Is the employee entitled to accept a certain level of risk in relation to his condition?**

I think an employer can not reject a worker with this condition, because he have right and the Disability Discrimination Act, can protect the worker from been discriminated.

In this case the employer should give the worker an opportunity and do not assign him jobs in heights, the worker may not be capable to do this task but can be very capable for work in other positions.

The employer should evaluate each individual on his knowledge, skills, experience, and how having epilepsy affects him. In other words, an employer should determine whether a specific applicant or employee would pose a direct threat or if this persona can be a significant risk of substantial harm to him or to his coworkers that cannot be eliminated or reduced through reasonable accommodation.

The manager has the responsibility to agree on making reasonable adjustments, and a review if circumstances changed, the residual risks to the applicant of accident or injury would be well below that accepted on a daily basis in activities and the risks to others would be negligible.

In work hazardous situations could be substantially reduced with comparatively little cost by reallocating responsibilities involving working at heights to other members of the team and rescheduling duties in the vicinity of plant machinery to times when the machines would not be operating.

It's very important that the worker notify to this employer his condition before accepting any job. So in this case, the employer can make some decisions about the new accommodation for this employee.

Health and safety law does not preclude the employment of someone with epilepsy from working in construction, though it does require that employers carry out a thorough assessment of the risks to health and safety of workers and others affected by the work. The Disability Discrimination Act makes it unlawful to automatically exclude a disabled person, or a group of disabled people from a particular job because of their impairment. This is termed direct

discrimination and cannot be justified in law. The employer should amend its recruitment standards to ensure that people are not ruled out automatically on the basis of a health condition or disability.

However, it can be justifiable to reject an individual applicant on health grounds, but only after a proper assessment of the risks associated with their particular impairment. In other words, the employer must look at the facts of each individual case and should seek competent advice, for example from an occupational health practitioner in deciding whether an applicant is fit for work; taking into account the impact of any possible reasonable adjustments. It is also good practice to delay any pre-employment decisions on health grounds until after it has been established that the individual meets all the other essential requirements of the job and a provisional job offer can be made.

Epilepsy can vary greatly; how it affects one person may be very different from how it affects someone else. With employment, it is important to look at each person's epilepsy and how it affects them.

But there is an alternative to this worker with this disability; the manager can also make employers aware of a grant that is available towards any extra employment costs that result from a person's disability. The extra costs may cover reasonable adjustments, such as buying special aids or equipment, or making adaptations to the premises or equipment.

In conclusion workers with epilepsy face negative and uninformed attitudes, outright (and illegal) discrimination, sometimes unnecessary driving requirements, and fear of repercussions after disclosing and under-utilization of their skills. On the other hand, employers worry about productivity, absenteeism, liability, job performance, reaction of customers or co-workers, accommodation costs and workplace safety.

Individuals with epilepsy successfully perform all types of jobs, including heading corporations, teaching and caring for children, and working in retail and customer service positions. Individuals with epilepsy also can perform jobs that might be considered "high-risk," such as police officer, firefighter, welder, butcher, and construction worker. Yet, many employers wrongly assume that people with epilepsy automatically should be excluded from certain jobs.

