



U.S. Equal Employment Opportunity Commission

PRESS RELEASE

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U.S. Supreme Court Denies United Airlines Petition

Seventh Circuit Decision that Employees With Disabilities Need Not Compete For Reassignment Stands

WASHINGTON - In a closely watched case, the U.S. Supreme Court issued a written order denying air transportation giant United Airlines's petition for high court review of a disability discrimination lawsuit brought by the U.S. Equal Employment Opportunity Commission (EEOC). This means the Seventh Circuit Court of Appeal's Sept. 7, 2012 decision will stand, holding that "reasonable accommodation" under the Americans with Disabilities Act (ADA) may require employers to provide employees with disabilities with "reassignment to a vacant position" when the employee cannot be accommodated in his or her current position. (*EEOC v. United Airlines*, 1:10-CV-01699, U.S. Dist. Court, No. Dist. of Illinois; *EEOC v. United Airlines*, No. 11-1774. 7th Cir.)

The EEOC's lawsuit charged that United violated the ADA by requiring workers with disabilities to compete for vacant positions for which they were qualified and which they needed in order to continue working. The company's practice frequently prevented employees with disabilities from continuing their employment with the company. The Seventh Circuit reversed the dismissal of the EEOC's disability discrimination lawsuit and found that "the ADA does indeed mandate that an employer appoint employees with disabilities to vacant positions for which they are qualified, provided that such accommodations would be ordinarily reasonable and would not present an undue hardship to the employer."

"The Seventh Circuit's affirmation of our interpretation of the ADA is a tremendous victory for individuals protected by the Americans with Disabilities Act, and we are pleased that the Supreme Court refused to review the decision," said EEOC General Counsel P. David Lopez. "This helps strengthen the EEOC's ability to fully enforce the law in both our individual and systemic cases."

The EEOC filed the original lawsuit on June 3, 2009 in the Northern District of California based on its investigation of a number of discrimination charges filed by United employees located in San Francisco and Chicago. United successfully moved for a change of venue to the Northern District of Illinois, where an earlier Seventh Circuit case, *EEOC v. Humiston Keeling*, 227 F.3d 1024 (7th Cir. 2000), had already held that a competitive transfer policy did not violate the ADA. In February 2011, the lower court, bound by this precedent, dismissed the EEOC's case against United. However, in an en banc review, the Seventh Circuit agreed with the EEOC that *Humiston Keeling* "did not survive" an intervening Supreme Court decision, *U.S. Airways v. Barnett*, 535 U.S. 391 (2002).

EEOC San Francisco Regional Attorney William R. Tamayo said, "Many times reassignment is the reasonable accommodation of last resort and considered only when the employee cannot be accommodated in the current position. With the Supreme Court's denial of United Airlines' petition, we can now go back to court to try to prove that United's qualified disabled employees should be provided reassignment."

According to the company web site, United Airlines has almost 50,000 employees in every U.S. state and in many countries around the world. The air carrier operates air travel hubs in Los Angeles, San Francisco, Denver, Chicago and Washington, D.C. United is one of the largest international carriers based in the United States.

The EEOC enforces federal laws prohibiting employment discrimination. Further information about the EEOC is available on its web site at www.eeoc.gov.