

Retail Detail



The Conflict in the Circuits Regarding Religious Accommodations Continues

On January 18, 2013, in *Equal Employment Opportunity Commission v. Rent-A-Center, Inc.*, a federal judge in Washington, D.C., ruled that Rent-A-Center, Inc. (“RAC”) had no duty to accommodate its Store Manager, Ferdinand Charles, when he requested to have every Saturday off to practice his faith as a Seventh-day Adventist. This is an interesting decision for retailers that face similar requests for scheduling accommodations from employees who seek religious accommodations. It is a vexing issue because the Circuit Courts are split with respect to whether granting such a scheduling request would constitute an “undue hardship” and thus allow retail employers to reject the request. The Third, Fourth, and Fifth Circuits have held that granting such a religious accommodation could create an “undue hardship” for the employer, while the Sixth and Ninth Circuits have adopted an approach that is less favorable for employers. Here, the D.C. District Court found that requiring RAC to give Mr. Charles every Saturday off would, under the special circumstances involved, create an undue hardship. The Court’s ruling provides guidance with respect to the criteria retail employers should consider when an employee requests such a schedule change as a religious accommodation.

RAC is a rent-to-own business with retail facilities across the country. Customers select merchandise at RAC stores, enter into rental agreements, and have RAC deliver the items to their homes. Since the stores are closed on Sundays, Saturdays are the Company’s busiest days. RAC staffs its stores very leanly and expects all Store Managers to work on Saturdays.

Mr. Charles worked for RAC for a number of years before RAC promoted him to Store Manager. The Store Manager is the highest ranking in-store employee and performs certain functions that no other employee performs. RAC explained that it was disruptive to business on Saturdays if the Store Manager did not work. After several months of working on Saturdays, Mr. Charles informed RAC that his religious beliefs as a Seventh-day Adventist prevented him from continuing to do so. After briefly accommodating his request, the Company ultimately determined that it was a hardship to continue to accommodate him this way. Accordingly, it terminated his employment after he failed to come to work on Saturday.

The court granted summary judgment for RAC, finding that it would be an undue hardship for RAC to give Mr. Charles every Saturday off because (i) the Store Manager was a unique and very important position, (ii) Saturdays were central to RAC’s weekly cycle, and (iii) RAC had adopted a policy requiring all Store Managers to work on Saturdays. The court held that if RAC did not have the only Store Manager available on Saturdays, then RAC would suffer more than a *de minimis* burden on its business.

The Court made a few other helpful findings: (1) Employers need not need present conclusive empirical evidence to prove that an accommodation would cause an “undue hardship.” (2) Employers need not actually implement the requested accommodation in order to claim that it would create an “undue hardship.”

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While *EEOC v. RAC* is a very favorable decision for retail employers, it has a narrow factual context: a situation where schedule changes would result in critical employees being absent during high volume periods on core business days. In addition, courts in the Second, Sixth and Ninth Circuits may not be as sympathetic to the hardships that retailers face in granting such scheduling requests. Finally, in certain states (for example, in New York, and in California, as of January 1, 2013) employers face statutes that significantly increase the employer's burden in proving the affirmative defense of undue hardship. Under these statutes, it not enough simply to show that an accommodation would create more than a "de minimis" burden; rather, the employer must show that the accommodation would create a significant expense or difficulty in light of various factors such as employer's size and operating costs and the number of employees requiring the accommodation.

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