

NEWS REPORT

Date: 31 December 2014
Expert: Pia Justesen
Title: Dismissal because of colour blindness
Country: Denmark
Context
Issue at stake: Definition of disability and reasonable accommodation for a person with colour blindness.
Ground of discrimination: Disability
Source: The Maritime and Commercial Court, F-2-13, judgment delivered on 22 December 2014.
Field: Employment
Legislative provisions: Section 1, 2, 2a and 7 in the Act on Prohibition of Discrimination on the Labour Market etc.

Content

Case: On January 24th 2012 A started his job as a seaman. The appointment was followed by a medical examination stating that A was suitable for ship service but unsuited for lookout service due to his colour blindness. In June A failed an extended lantern exam and was informed by the The Danish Maritime Authority that he was not suitable for lookout services. On June 25th the seaman was dismissed due to his colour blindness, which meant that he did not live up to the general legal requirements for the crew on the ship.

In the case, A claimed that he was dismissed because of his disability.

Decision of the Court: The Danish Maritime and Commercial Court stated that the colour blindness of A was an illness medically diagnosed and that the illness entailed a limitation which hindered the full and effective participation of A in his special professional life as a seaman on an equal basis with other seamen. The Court argued that because of his colour blindness, A was not able to or allowed by law to perform essential tasks on the ship (the lookout tasks). Thus the Court concluded that A had a disability encompassed by the Act on Prohibition of Discrimination in the Labour Market etc. and the Employment Equality Directive.

The Court stated that A was dismissed because of his disability and subsequently examined whether the employer should have established reasonable accommodation for A to stay in his job. The employer was a small shipping company with few employees and there was no other job that A could perform instead of his job as a seaman. Since the only realistic option would be to hire an extra seaman during the two weeks when A was at sea, the Court concluded that such an accommodation would be unreasonable for the employer. Thus discrimination due to disability had not taken place.

Internet link source and additional information:

<http://domstol.fe1.tangora.com/Domsoversigt.16692/F-0002-13.1494.aspx>