

BY (No. 2) v. IBRD, Decision No. 481 [2013]

The Applicant, who suffered from a psychological condition caused by work-related stressors, challenged the termination of his employment, contending that the Bank had failed to provide him the reasonable accommodation of reassignment to a vacant position outside his Regional Vice Presidency (“Region”). He sought compensation for loss of income because the benefits received under the Bank’s Long Term Disability program equal only 70% of his salary; and also for pain, suffering, and damage to his health, career and reputation.

The Tribunal noted the Bank’s commitment to the principle that staff with disabilities should be enabled to perform their work at the same level as non-disabled staff and that the Bank follows the Americans with Disabilities Act definition of reasonable accommodation as “a modification or adjustment to a job, the application process, the work environment, or the way things usually are done that enables a qualified individual with a disability to enjoy an equal employment opportunity and benefits and privileges of employment.”

The Tribunal found that the Bank had offered the Applicant the accommodation of reassignment to a newly created position within his Region. The Applicant had contended he had received no such offer. While noting the documentary record of the accommodation offered to the Bank was regrettably thin, the Tribunal found the witness evidence provided by the Bank to be detailed, specific and consistent with the available documentary evidence.

The Tribunal went on to find that the offer of reassignment made to the Applicant constituted a reasonable accommodation. The thrust of the medical advice had been that the Applicant should report to different managers or supervisors, rather than be assigned to any particular part of the Bank. The Tribunal held that the Bank met its obligation to accommodate the Applicant when it offered him a newly created position that would substantially eliminate the Applicant’s contact with his previous supervisors. The Tribunal explained that where more than one reasonable accommodation is possible, the Bank may choose between them on the grounds of cost or convenience, and that if a staff member with a disability rejects a reassignment that is reasonable in the circumstances of the case, the Bank is under no obligation to continue offering other reassignments. This follows from the fact that the obligation is to provide a reasonable accommodation based on medical need, not on the employee’s personal preference.

The Tribunal noted its concern that it took the Bank some six months to first offer an accommodation to the Applicant and underlined that reasonable expeditiousness is an implicit requirement in the provision of a reasonable and effective accommodation.

Decision: The Application was dismissed. The Bank was ordered to pay the Applicant’s legal costs.