

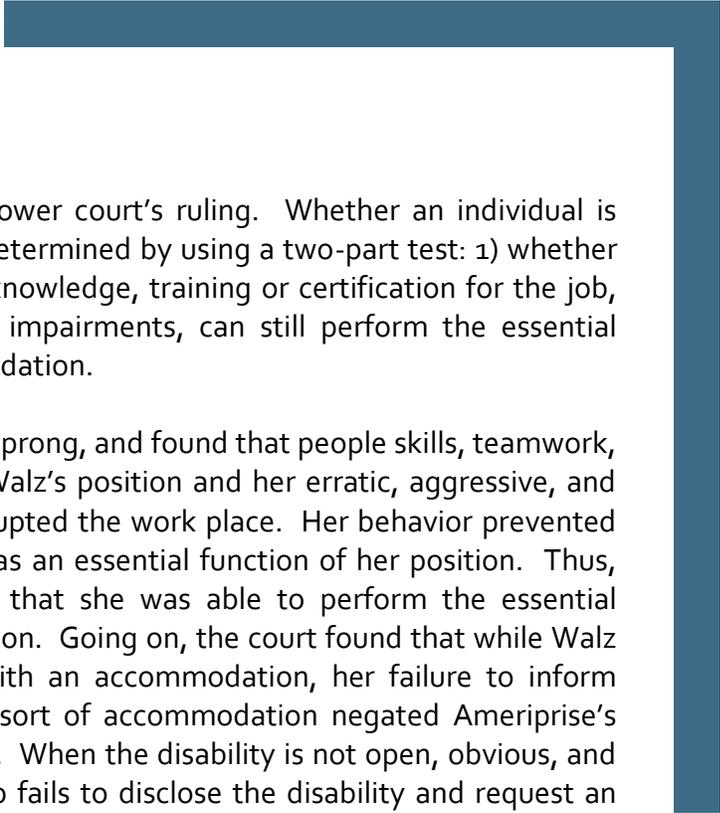
Eighth Circuit Holds that Employer May Terminate Employee for Misconduct Caused by Disability.

In March 2015, the Eighth Circuit Court of Appeals decided a case in which a terminated employee, who suffered from bipolar disorder, brought action against her former employer after termination alleging disability discrimination in violation of the Americans with Disabilities Act and the Minnesota Human Rights Act. The court affirmed the trial court's holding that 1) the behavior of the employee violated reasonable, job-related conduct standards, and the employee failed to demonstrate that she was able to perform the essential functions of her position; and 2) the employer was not liable under the ADA for its failure to accommodate the employee when the employee failed to make a request for accommodation known to her employer.

From 1996 – 2012, Ameriprise Financial employed Marissa Walz in various positions. In 2011, Walz was hired to work in Ameriprise's Enterprise Operations Support Department. The role required Walz to build consensus among individuals to standardize Ameriprise's letters to customers and wholesalers. The position required teamwork, good communication skills and building and maintaining relationships. Unbeknownst to Ameriprise, Walz suffered from Bipolar I Disorder, which is characterized by extreme mood swings ranging from depression to mania. Manic episodes can be severe, and symptoms often include poor judgment, rapid speech, racing thoughts, aggressive behavior, agitation, irritation and delusions.

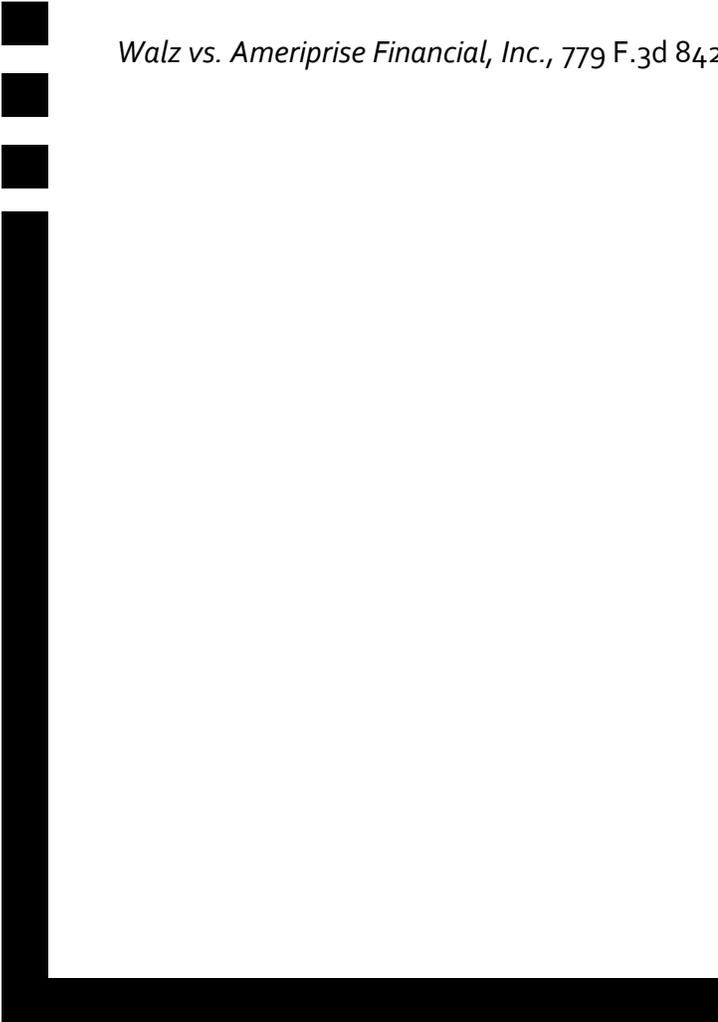
In March 2012, Walz began to experience a flare-up of her disorder and she became extremely manic. She had outbursts in meetings, was aggressive with other employees and supervisors, was visibly agitated and wrote e-mails that did not make sense or were offensive. In one incident, Walz interrupted a team meeting by shouting at a co-worker and then scribbling illegible notes on a white board. Ameriprise eventually issued Walz a behavioral warning, at which point she requested time off from work. She also then applied for FMLA leave that was granted.

In April 2012, Walz returned to work with a note from her physician clearing her for work. The note indicated that Walz had been stabilizing on medication and was attending outpatient treatment and that she could work 40 hours per week. The note did not provide any diagnosis or description of her condition. However, in July 2012 Walz's mania returned when she again disrupted team meetings and was aggressive with co-workers. When her behavior did not improve, Walz was terminated in August 2012. Walz brought suit alleging that Ameriprise terminated her because of her bipolar disorder and that it failed to accommodate her as required by the ADA. Ameriprise moved for summary judgment.



The Eighth Circuit agreed with the lower court's ruling. Whether an individual is qualified within the meaning of the ADA is determined by using a two-part test: 1) whether the individual possesses the required skills, knowledge, training or certification for the job, and 2) whether the employee despite any impairments, can still perform the essential functions of the job with or without accommodation.

The court here focused on the second prong, and found that people skills, teamwork, and communication skills were needed for Walz's position and her erratic, aggressive, and rude behavior disturbed co-workers and disrupted the work place. Her behavior prevented her from working well with others- which was an essential function of her position. Thus, Walz could not make a sufficient showing that she was able to perform the essential elements of her job without an accommodation. Going on, the court found that while Walz may have been able to perform her job with an accommodation, her failure to inform Ameriprise of her disability or request any sort of accommodation negated Ameriprise's liability for her claim of unlawful termination. When the disability is not open, obvious, and apparent to the employer, an employee who fails to disclose the disability and request an accommodation cannot show that she is a qualified employee.



Walz vs. Ameriprise Financial, Inc., 779 F.3d 842 (8th Cir. 2015).

