

BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

PATRICIA HYMEL

APPELLANT

VS.

NO.12-011

MISSISSIPPI DEPARTMENT OF
HUMAN SERVICES

APPELEE

ORDER

This cause came on for hearing on May 29, 2012, in Jackson, Mississippi. The Appellant, Patricia Hymel, represented herself and Joyce Hill Williams represented the Mississippi Department of Human Services("MDHS").

The following persons testified: Patricia Hymel, Gloria Jackson, and Larry Jackson.

On October 11, 2011, Patricia Hymel was employed by the MDHS. Hymel was a probationary employee. On February 12, 2012, MDHS issued a termination notice to Hymel. On February 29, 2012, Hymel filed an appeal of that termination with the Mississippi Employee Appeals Board alleging that she was terminated because of a disability.

This tribunal finds as follows: Patricia Hymel fell at work and injured her left arm on October 14, 2011. Hymel filed for workers compensation and was off work for several weeks. On January 5, 2012, Ms. Hymel's doctor, Dr. Field, issued a return to work slip for Hymel stating that Hymel could return to work with no use of her left arm. The workers' compensation third party administrator and Gloria Jackson, MDHS Personnel Director, received a copy of the January 5, 2012, return to work slip. On January 6, 2012, Jackson sent a letter to Hymel acknowledging her return to work, with accommodations for a period of thirty days, and requesting that Hymel review her job duties and "(f)ollowing this review, if reasonable workplace accommodations are deemed necessary, you should request, **in writing**, that management consider providing these to you. This written

request. . . is needed as soon as possible, but no later than Monday, January 23, 2012." Hymel did not return to work the week of January 9-11, 2012. On January 19, 2012, Hymel returned to Dr. Field and received another return to work slip with a limitation on her return to work which stated "Cannot return to work until rechecked on 1-16-2012 or able to drive." Gloria Jackson did not receive anything in writing from Hymel until February 17, 2012, when Hymel sent or resent a copy of the January 19, 2012, return to work slip to Jackson. Hymel did not report to work and MDHS did not receive a written request for additional accommodations prior to the January 23, 2012, deadline. This lack of communication appears to be the reason for Hymel's termination, not Hymel's disability.

The Mississippi Employee State Handbook states as follows with regard to probationary employees, "(d)uring this . . . probationary period, the employee does not have a property right to his or her job and may be terminated with or without cause and without due process by the employee." Since Hymel was an at will employee and was not terminated due to her disability her termination is affirmed.

For the foregoing reasons this tribunal finds that Patricia Hymel's termination was not discriminatory and is affirmed, and Hymel's appeal is dismissed with prejudice.

SO ORDERED THIS THE 4th DAY OF June 2012.

MISSISSIPPI EMPLOYEE APPEALS BOARD

BY: 
INGRID DAVE WILLIAMS
Hearing Officer