

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Brouillard v. Sunrun, Inc.

2023 NY Slip Op 04184 (N.Y. Ct. App. 2023) · No. 2020-03610 · Decided August 9, 2023

SUMMARY

The Appellate Division, Second Department affirmed an order addressing claims brought by Luke Brouillard against Sunrun, Inc. arising from the rescission of a job offer after a positive marijuana test. The court held that the complaint failed to state a disability-discrimination claim under the New York State Human Rights Law because it did not allege that the plaintiff could perform the job’s essential functions with reasonable accommodation, but sufficiently stated claims under the broader New York City Human Rights Law.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Mark C. Dillon, J.P.; Joseph J. Maltese, J.; Paul Wooten, J.; Barry E. Warhit, J.
JURISDICTION	New York
DECIDED	August 9, 2023
DOCKET	2020-03610
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed and plaintiff cross-appealed from an order resolving defendant's CPLR 3211(a) motion to dismiss employment-discrimination claims.
STANDARD OF REVIEW	On a CPLR 3211(a)(7) motion, the court determines whether the pleading states a cause of action, accepting the alleged facts as true and determining whether they fit within any cognizable legal theory.
PRECEDENTIAL VALUE	published appellate opinion
PARTIES	Sunrun, Inc. v. Luke Brouillard

TOPICS

disability discrimination

reasonable accommodation

employment discrimination

appellate procedure

standard of review

PRACTICE AREAS

employment law

civil rights

QUESTIONS PRESENTED

1. Whether Brouillard stated a cause of action for disability discrimination under the New York State Human Rights Law.
2. Whether Brouillard stated a cause of action for disability discrimination under the New York City Human Rights Law based on Sunrun's refusal to hire him after a positive marijuana test despite knowledge that he used medical marijuana to treat a medical condition.

HOLDINGS

1. The complaint failed to state a cause of action under the NYSHRL because it did not allege facts sufficient to show that, with reasonable accommodations, Brouillard could perform the essential functions of the job.
2. The complaint sufficiently stated NYCHRL disability-discrimination claims because it alleged that Brouillard was disabled and was discriminated against based on his disability.

KEY QUOTATIONS

“To state a claim under the [NYS]HRL, the complaint and supporting documentation must set forth factual allegations sufficient to show that, ‘upon the provision of reasonable accommodations, [the employee] could perform the essential functions of [his or] her job’”

“Refusing to hire the plaintiff because he tested positive for marijuana while knowing that he was being treated with marijuana by a licensed physician for a medical condition effectively denied the plaintiff the opportunity of a reasonable accommodation, and therefore, under these circumstances, is appropriately recognized as a cognizable cause of action to recover damages for employment discrimination on the basis of disability in violation of the NYCHRL ”

FACTUAL BACKGROUND

Sunrun offered Brouillard a position as a field sales consultant. Brouillard alleged that he had several physical conditions causing chronic pain and that he possessed a New York medical-marijuana registry identification card to treat those conditions. After he tested positive for marijuana in a pre-employment drug test, he provided Sunrun with his medical-marijuana documentation, but Sunrun rescinded the job offer.

PROCEDURAL HISTORY

Luke Brouillard sued Sunrun, Inc., alleging disability discrimination under the New York State Human Rights Law and the New York City Human Rights Law after Sunrun rescinded a job offer following a positive

marijuana test. The Supreme Court, Kings County, dismissed the NYSHRL cause of action under CPLR 3211(a) (7) but denied dismissal of the NYCHRL causes of action. Sunrun appealed the denial of dismissal, and Brouillard cross-appealed the dismissal of the NYSHRL claim. The Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- Jacobsen v. New York City Health & Hosps. Corp., 22 NY3d 824, 834
- Romanello v. Intesa Sanpaolo, S.p.A., 22 NY3d 881, 884-885
- Staskowski v. Nassau Community Coll., 53 AD3d 611, 611
- McKenzie v. Meridian Capital Group, LLC, 35 AD3d 676, 677
- Gordon v. Consolidated Edison Inc., 190 AD3d 639, 641
- Millman v. CVS Caremark, 2015 WL 6760204, 2015 U.S. Dist. LEXIS 150488 (E.D.N.Y. 2015)
- Barbuto v. Advantage Sales & Mktg., LLC, 477 Mass. 456, 466-467, 78 NE3d 37, 47