

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**MISSOURI VETERANS HOME,
ERIC J. ENDSLEY, ADMINISTRATOR,
MISSOURI VETERANS COMMISSION**

APPELLANTS,

**v.
VERNA J. BROWN**

RESPONDENT.

DOCKET NUMBER WD74289

DATE: July 17, 2012

Appeal From:

Cole County Circuit Court
The Honorable Daniel R. Green, Judge

Appellate Judges:

Special Division: Lisa White Hardwick, Chief Judge, Presiding, Karen King Mitchell, Judge and
Cynthia L. Martin, Judge

Attorneys:

Kevin R. Hall, Jefferson City, MO, for appellants.

Ronnie L. Podolefsky, Buffalo, NY, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

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Before Special Division: Lisa White Hardwick, Chief Judge, Presiding, Karen King Mitchell, Judge and Cynthia L. Martin, Judge

Missouri Veterans Home, Eric J. Endsley, the Administrator and Appointing Authority of the MVH, and the Missouri Veterans Commission appeal the decision of the Personnel Advisory Board disapproving the dismissal of Verna Brown, a merit employee, and ordering her reinstatement with back pay. MVH contends that the PAB's Decision (1) is unauthorized by law because it declares the use of other staff to assist in the performance of job duties to be a reasonable accommodation contrary to MVH internal policy and to case law interpreting the Americans with Disabilities Act; and (2) is not supported by competent and substantial evidence, is arbitrary and unreasonable, and constitutes an abuse of discretion.

Affirmed.

Special Division holds:

(1) The PAB has only those powers expressly conferred on it or necessarily implied by Missouri Constitution or statute. The PAB's powers do not extend to determining or remediating violations of the ADA.

(2) The PAB's determination that MVH failed to meet its burden to establish that Brown's termination was for cause and for the good of the service is supported by sufficient competent and substantial evidence on the whole record. The evidence at the hearing supports the PAB's conclusion that, consistent with the MVH's ADA policy, Brown could perform the essential functions of her job with reasonable accommodations and that there was no evidence suggesting she was a direct threat to safety.

Opinion by Cynthia L. Martin, Judge

July 17, 2012

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