In a Lawsuit, Restaurant Server Claims He Was Fired Because He Has HIV

To be clear: You can't get HIV by eating food handled by someone who is positive.

November 11, 2019 By Trent Straube

A former employee of a Kansas restaurant is suing the establishment because, he claims, he was fired after the management learned he is HIV positive, CNN reports.

Armando Gutierrez, a server at Big Biscuit in Overland Park, Kansas, claims he found out he has HIV last December, after being employed there for about a year. In order to obtain his HIV meds from a state program, he needed a manager to sign a form.

A day after asking for the signature, CNN reports, Gutierrez was transferred to another location and told that his new schedule would require him to work Sundays. Previously, he had arranged with managers to have Sundays off for family commitments. According to the lawsuit, Better Biscuit fired him because he wasn't able to work Sundays, despite management being aware of his schedule.

Gutierrez said although he had performed well at his job and the managers liked him, he was given no warning before being fired.

As CNN highlighted, the Centers for Disease Control and Prevention states that people cannot contract HIV from eating food handled by someone who is HIV positive. For more about that topic, read the POZ Basics "HIV Transmission and Risks."

The Americans With Disabilities Act (ADA) prohibits public entities from discriminating against people who have disabilities, including HIV. The U.S. Department of Labor and the U.S. Equal Employment Opportunity Commission help enforce and investigate claims involving the ADA. To learn more about the ADA, you can call the toll-free ADA information line at 800-514-0301 or 800-514-0383, or visit ADA.gov.

In related news, a woman filed a lawsuit against a salon in Florida because she claims it refused to give her a massage because she has HIV. For more, click here. Also, see our POZ cover story

“Defying Discrimination” (pictured above) about taking action against stigma and discrimination. It includes tips on filing an HIV lawsuit.

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