

New Jersey's Law Against Discrimination May Protect Non-Resident Telecommuting Employees?

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The New Jersey Appellate Division, in an *unpublished* decision, ruled that an out-of-state resident working remotely for a New Jersey based company *may* be afforded the comprehensive protections of the New Jersey Law Against Discrimination (LAD).

The plaintiff lives in Massachusetts and works remotely for a Haddonfield-based company. The plaintiff herself never lived in New Jersey and only visited the company's headquarters on a few occasions. She worked remotely on the company's computer systems, had a company issued cell phone and had health insurance through her employer. When she sought relief under the state's LAD, the New Jersey Appellate Division said she is entitled to prove her ties to New Jersey and to prove she is an individual who can avail herself of the New Jersey Law Against Discrimination statute.

The Court said "nowhere in the Law Against Discrimination statute is the term inhabitant defined or otherwise expressed," and while the LAD categorizes various protected classes of plaintiffs, the specific language of the LAD provides that it was created to "prohibit unlawful employment practices and unlawful discrimination against '*any individual*.'"

Note that this is only an initial, unpublished decision and issued before discovery. In light of strong public policy against discriminatory practices, the issue regarding protections for non-resident, telecommuting employees working for New Jersey companies is undoubtedly far from over.

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