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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0313**

James Johanning,
Appellant,

vs.

Summit Orthopedics, Ltd.,
Respondent.

**Filed December 13, 2021
Affirmed
Cochran, Judge**

Washington County District Court
File No. 82-CV-20-1082

Steven Andrew Smith, Matthew A. Frank, Laura A. Farley, Nichols Kaster, PLLP,
Minneapolis, Minnesota (for appellant)

Sara G. McGrane, Zachary A. Alter, Felhaber Larson, Minneapolis, Minnesota (for
respondent)

Considered and decided by Slieter, Presiding Judge; Cochran, Judge; and
Kirk, Judge.*

NONPRECEDENTIAL OPINION

COCHRAN, Judge

This appeal follows the district court's summary-judgment dismissal of appellant's
action under the Minnesota Human Rights Act (MHRA), Minn. Stat. §§ 363A.01-.50

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

(2020). In his complaint, appellant alleged that respondent discriminated against him on the basis of a disability in violation of the MHRA when it failed to hire him after making a conditional offer of employment. Respondent subsequently filed a motion for summary judgment and the district court granted the motion, concluding, in part, that appellant failed to meet “his burden of showing that he is disabled.” Because the evidence construed in appellant’s favor fails to support his claim that he has a “disability” within the meaning of the MHRA, we affirm.

FACTS¹

This action arises from appellant James Johanning’s application to work as a physician assistant (PA) for respondent Summit Orthopedics Ltd. Summit is a healthcare organization that focuses on orthopedic care. Its facilities include multiple surgery centers as well as walk-in “OrthoQUICK” clinics, at which no surgeries are performed.

Johanning is a PA who specializes in orthopedics. He began working as a PA in 1998. Johanning also suffers from alcohol use disorder, commonly known as alcoholism. According to Johanning, his alcoholism has never impacted his work.

Johanning was diagnosed with alcoholism in 2013 after being convicted of driving under the influence of alcohol (DUI). Johanning was sober for approximately two and a half years after his 2013 conviction, but then relapsed and began abusing alcohol again. In January 2018, Johanning was convicted of a second DUI. Johanning then entered a 28-day

¹ The facts as presented in this opinion are either based on undisputed evidence or disputed evidence construed in the light most favorable to appellant, the party against whom summary judgment was granted. *See, e.g., Fabio v. Bellomo*, 504 N.W.2d 758, 761 (Minn. 1993).

inpatient treatment program. After completing that program, Johanning participated in an outpatient treatment program for nine months, from which he graduated in January 2019.

Following his 2018 DUI conviction, the board of medical practice conducted an investigation into Johanning's PA licensure. The board dismissed the matter in early October 2018 based on Johanning's participation in Minnesota's Health Professionals Services Program (HPSP). HPSP is a program for medical practitioners with chemical-dependency issues that involves providing support and monitoring work performance while allowing practitioners to continue practicing in the medical field.

Johanning Seeks Employment with Summit

In September 2018, Johanning applied for an "OrthoQUICK PA" position with Summit. Johanning interviewed for the position with Brent Osgood, who was then a lead PA with Summit, and Chad Nelson, who was then Summit's director of clinic operations. During the interview, Johanning informed Osgood and Nelson about his recent treatment for alcoholism. According to Johanning, he also told Osgood and Nelson about his 2013 and 2018 DUI convictions and his participation in HPSP. Following the interview, Kimberly Quigley, a human resources manager at Summit, offered Johanning the OrthoQUICK PA position. Johanning declined the offer because the position's evening work schedule would limit his ability to spend time with his children.

In late October 2018, Quigley emailed Johanning about an available "float PA" position. Float PAs at Summit perform work in various PA roles and "float" across all of Summit's physician teams and locations. Johanning expressed interest in the role. Summit did not require Johanning to reinterview for the job, and Johanning received an offer letter

from Summit for the position in early November. Johanning's start date was scheduled for December 10.

Because the float PA position involved performing surgical work, Summit's offer was conditioned on Johanning receiving privileges at Summit's surgery centers. To obtain privileges, Summit required Johanning to submit to a "credentialing" process. Summit's credentialing department handles this review process internally. On November 14, Johanning submitted his credentialing application. On the application form, Johanning disclosed his two DUI convictions and a conviction in 2013 for violating an order for protection. With respect to the two DUI convictions, Johanning indicated that both were related to his alcoholism. He also explained the treatment that he sought after each DUI, including inpatient and outpatient treatment, and he stated that he was currently "voluntarily enrolled in HPSP." Johanning's credentialing application was reviewed by Dr. Peter Daly, who was then the outgoing medical director for Summit's surgical centers, and Dr. Eric Khetia, who was then the incoming medical director for the surgical centers.

On December 4, just under one week before Johanning's start date, Johanning sent an email to Quigley and Nelson in which he stated that he had attached a "work site monitor form." The body of the email indicated that Summit would need to designate one of its employees as a worksite monitor as part of Johanning's participation in HPSP. This was the first time Quigley had heard that Johanning's participation in HPSP required Summit to assign a worksite monitor. Later that day, Johanning and Quigley spoke on the phone. Quigley expressed surprise that Johanning's participation in HPSP would require Summit

to provide a monitor. According to Johanning, her demeanor “went very cold,” and she almost immediately said, “Well, we’re going to put your start date on hold.”

The next day, December 5, Johanning and Quigley spoke on the phone again. Quigley informed Johanning that Summit was rescinding his job offer. Johanning asked Quigley, “Is this because I was in treatment for alcoholism? Are they rescinding because of that?” Johanning recalls that Quigley responded, “Yes.” She then added, “It’s just too recent,” and, “Perhaps in the future.”

On December 13, Johanning sent an email to Quigley and Nelson requesting that Summit provide written documentation explaining that his job offer was rescinded and its rationale for the decision. Summit then sent Johanning a letter stating that it had rescinded the offer because “[t]hrough the credentialing process, it was determined that the Summit Orthopedics Surgery Centers were unable to grant you privileges.” The letter further stated: “As a full time float Physician Assistant, privileges at our Surgery Centers are a requirement of the position. As a result, our conditional offer of employment was rescinded”

District Court Action

Johanning filed suit, alleging a single count of employment discrimination in violation of the MHRA. Specifically, Johanning asserted that Summit discriminated against him on the basis of a “disability” within the meaning of the MHRA when it rescinded its offer of employment for the float PA position because of his alcoholism. During discovery, the parties deposed Johanning, Osgood, Nelson, Quigley, Dr. Daly, and Dr. Khetia. Dr. Daly, Dr. Khetia, and Quigley each testified that Summit had denied

privileges to Johanning through the credentialing process solely due to Johanning's criminal background and the recency of it. Quigley specified that the decision to rescind the float PA offer "essentially . . . came down to the criminal background that Mr. Johanning had and the recency of the DUI in January of 2018."

Summit moved for summary judgment. Johanning opposed the motion. The district court granted the motion and dismissed Johanning's complaint.

Johanning appeals.

DECISION

Johanning argues that the district court erred by granting summary judgment to Summit. We review summary-judgment decisions de novo. *City of Waconia v. Dock*, 961 N.W.2d 220, 229 (Minn. 2021). The district court shall grant summary judgment when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Minn. R. Civ. P. 56.01; *Hagen v. Steven Scott Mgmt., Inc.*, 963 N.W.2d 164, 172 (Minn. 2021). "A genuine issue of material fact exists when there is sufficient evidence regarding an essential element to permit reasonable persons to draw different conclusions." *St. Paul Park Ref. Co. v. Domeier*, 950 N.W.2d 547, 549 (Minn. 2020) (quotation omitted). When reviewing a summary-judgment decision, we view the evidence in the light most favorable to the nonmoving party. *Id.* To survive summary judgment, the nonmoving party must present specific, admissible evidence that demonstrates a genuine issue of material fact. *Doe v. Archdiocese of St. Paul*, 817 N.W.2d 150, 163 (Minn. 2012). We may affirm a grant of summary judgment on any ground. *Id.*

Under the MHRA, it is an unfair employment practice for an employer to refuse to hire a person because of a disability. Minn. Stat. § 363A.08, subd. 2. To prevail on an employment-discrimination claim under the MHRA, a plaintiff must show (1) the plaintiff has a “disability” as defined by the MHRA, and (2) employment discrimination within the meaning of the MHRA on the basis of the disability. Minn. Stat. §§ 363A.03, subd. 12, 363A.08, subd. 2. Discriminatory intent can be shown either by “direct evidence” of discrimination or by evidence that satisfies the three-part framework set out in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). *Hoover v. Norwest Private Mortg. Banking*, 632 N.W.2d 534, 542 (Minn. 2001). “Direct evidence is that which shows a specific link between the alleged discriminatory animus and the challenged decision, sufficient to support a finding by a reasonable fact finder that an illegitimate criterion actually motivated the adverse employment action.” *St. Martin v. City of St. Paul*, 680 F.3d 1027, 1033 (8th Cir. 2012) (quotation omitted) (discussing direct evidence in context of analogous disability-discrimination analysis under Americans with Disabilities Act (ADA)).

Absent direct evidence of discrimination, a plaintiff must proceed under the *McDonnell Douglas* framework. *Hoover*, 632 N.W.2d at 542. To meet the first part of the *McDonnell Douglas* framework, a plaintiff must establish a prima facie case of discrimination. *Id.* A prima facie case requires a showing that (1) the plaintiff belongs to a protected class; (2) the plaintiff applied and was qualified for a job for which the employer was seeking applicants; (3) despite the plaintiff’s qualification, the plaintiff was rejected; and (4) after the plaintiff’s rejection, the position remained available or was given to someone else with the plaintiff’s qualifications. *Sigurdson v. Carl Bolander & Sons Co.*,

532 N.W.2d 225, 228 (Minn. 1995). Once a prima facie case is established, the burden then shifts to the employer to offer a legitimate and nondiscriminatory reason for the adverse employment action. *Hansen v. Robert Half Int’l, Inc.*, 813 N.W.2d 906, 918 (Minn. 2012). If the employer offers such a reason, the burden shifts back to the plaintiff to provide sufficient evidence showing that the employer’s proffered explanation was pretextual. *Id.*

The district court granted Summit’s summary-judgment motion on a number of alternative grounds. The district court first concluded that Johanning had not met his burden to demonstrate that he has a disability within the meaning of the MHRA. The district court also determined that Johanning had not presented sufficient direct evidence of discrimination. And it concluded that Johanning could not establish a prima facie case under the *McDonnell Douglas* framework because Johanning was not qualified for the float PA position. The district court further determined that Summit’s decision to rescind the float PA offer was permitted under the MHRA because the decision was based on a “bona fide occupational qualification.”

Johanning challenges the district court’s summary-judgment decision on each of those grounds. For the reasons set forth below, we conclude that Johanning has failed to meet his burden to bring forth sufficient evidence to demonstrate that he has a “disability” within the meaning of the MHRA. As a result, there is no genuine issue of material fact on this essential element of his MHRA claim and the district court properly granted summary judgment on that basis alone. We therefore do not reach Johanning’s remaining arguments.

To succeed on a disability-discrimination claim under the MHRA, an individual must have a “disability” within the meaning of the statute. *See* Minn. Stat. § 363A.08, subd. 2 (prohibiting employment discrimination based on disability). The MHRA defines “disability” as “any condition or characteristic that renders a person a disabled person.” Minn. Stat. § 363A.03, subd. 12. “[D]isabled person” is in turn defined as “any person who (1) has a physical, sensory, or mental impairment which materially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.” *Id.*

The district court determined that Johanning did not present any evidence in opposition to Summit’s motion for summary judgment demonstrating that Johanning satisfies any of those three definitions. On appeal, Johanning contends that he established a genuine dispute of material fact as to whether he fits the first and third definitions. We address each argument in turn.

First Definition—Impairment that Materially Limits One or More Major Life Activities

Johanning contends that he established that he is a “disabled person” within the meaning of the first definition because he demonstrated that he has an “impairment which materially limits one or more major life activities”—namely, his alcoholism. Summit does not appear to dispute that Johanning’s alcoholism is an impairment but does dispute that Johanning identified any major life activity limited by his alcoholism. For the purposes of this appeal, we assume, without deciding, that Johanning’s alcoholism is an impairment within the meaning of the MHRA. We address only Johanning’s contention that a

reasonable jury could find, based on the summary-judgment record, that his alcoholism materially limits one or more major life activities.

The MHRA does not define the terms “materially limits” or “major life activities.” Where the MHRA does not define a term, “Minnesota has sought guidance in the interpretations of federal antidiscrimination statutes when the state law provisions in question are similar to provisions of the federal statutes.” *Gee v. Minn. State Colls. & Univs.*, 700 N.W.2d 548, 553 (Minn. App. 2005). The MHRA and ADA both require a plaintiff to show that their impairment limits them in a major life activity, although the ADA applies a “substantially limits” standard that is more stringent than the MHRA’s “materially limits” standard. *Kammueler v. Loomis, Fargo & Co.*, 383 F.3d 779, 784 (8th Cir. 2004). Major life activities are “activities that are of central importance to daily life.” *Gee*, 700 N.W.2d at 553 (quotation omitted) (reciting federal definition under ADA). These activities include, but are not limited to, “caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.” *Id.* (quotation omitted). A major life activity is “materially limited” when it is “greatly impeded.” *Sigurdson*, 532 N.W.2d at 228-29.

In his opposition to Summit’s motion for summary judgment, Johanning did not bring forth any evidence demonstrating a great impediment to any major life activity. Johanning also did not identify any particular major life activity that is limited by his

alcoholism. His own deposition testimony, viewed in the light most favorable to him, fails to demonstrate such evidence. Johanning testified as follows:

Q: And then other than the time . . . participating in the AA program or the spirituality additional pieces, other than the time component, does your previous alcoholism impact your daily activities in any way?

A: No.

Q: Able to get dressed, able to work, able to think?

A: Yes.

....

Q: So prior to your sobriety two and a half years ago, did you have any impairments or impact at work because of your alcoholism?

A: I continued to perform very well at work. I did not have any impact at work. I remained in very good standing with good reviews at work.

Q: Would your drinking tend to start after work?

A: Yes.

Q: And did you ever drink so much that it impacted you the next morning where you had difficulties at work in the morning?

A: I would say there was some mornings I did not feel well, but I was always able to perform my job very well.

Q: So despite not feeling well, it didn't actually impact your performance at work; is that true?

A: That's true.

The only effects of his alcoholism that Johanning identified at any point in his deposition testimony were that his drinking caused him to be "not as active" after work and "not as motivated to be taking trips with [his] kids or doing things as a family," and that his sobriety required him to separate socially from "several acquaintances." But, even assuming socializing constitutes a major life activity, Johanning's deposition testimony does not support a conclusion that his ability to socialize was greatly impeded. Moreover, Johanning has not argued, either to the district court or on appeal, that his alcoholism has

materially limited his ability to socialize. In sum, according to Johanning’s own deposition testimony, his alcoholism did not affect his major life activities in any material way.²

On appeal, Johanning contends that his alcoholism materially limits his “brain function,” which is listed as a major life activity under the ADA. *See* 42 U.S.C. § 12102(2)(B) (2018). And he contends that the following evidence demonstrates that his alcoholism materially limits his brain function: he has been diagnosed with alcoholism; he testified that his alcoholism was a “lifelong disease”; he has completed treatment for alcoholism; he was receiving ongoing treatment and job monitoring during the fall of 2018; and he has a history of relapsing. Summit urges us not to consider Johanning’s brain-function argument because Johanning did not raise this argument before the district court. Summit also argues that the ADA provision on which Johanning relies to assert that brain function is a major life activity under the MHRA does not apply to MHRA claims.

We generally consider only issues that were presented and considered by the district court. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). This principle applies where a party “rais[es] the same general issue litigated below but under a different theory.” *Id.*

² We also note that Johanning has not argued that his alcoholism materially limits the major life activity of working. He did not argue that his ability to work has been limited by his need to have a worksite monitor or that his alcoholism has affected his working life in any other way. To the contrary, he testified in his deposition that his alcoholism “did not have any impact at work.” Because Johanning has not raised an argument that his alcoholism materially limits his ability to work, we cannot conclude that he meets the statutory definition of having a “disability” on that basis.

Because Johanning raises his brain-function theory for the first time on appeal, his argument is not properly before this court.

Even if we were to consider Johanning's brain-function theory and assume that it is a major life activity under the MHRA, none of the evidence identified by Johanning raises a genuine dispute of material fact as to whether Johanning's brain function is materially limited by his alcoholism. Under federal law, alcoholism is not a *per se* disability. *Bailey v. Ga.-Pac. Corp.*, 306 F.3d 1162, 1168 (1st Cir. 2002) (discussing analogous ADA standard); *Oxford House, Inc. v. City of Baton Rouge*, 932 F.Supp.2d 683, 688 (M.D. La. 2013) (“[T]here is no *per se* rule [under the ADA] that categorizes recovering alcoholics and drug addicts as disabled or handicapped, and a case-by-case evaluation is necessary.”). And evidence of a diagnosis is not sufficient by itself to establish a qualifying disability. *Samuels v. Kan. City Mo. Sch. Dist.*, 437 F.3d 797, 801 (8th Cir. 2006) (discussing ADA standard). Given the similarities between the ADA and MHRA definitions of “disability,” we discern no reason to depart from the case-by-case evaluation that is required by the federal law. Therefore, merely pointing to evidence that Johanning has struggled with alcoholism and has received a diagnosis and treatment for the disorder is insufficient to demonstrate that the impairment greatly impedes his brain function. In other words, he has not provided any evidence to show *how*, in terms of his own experience, his alcoholism limits his brain function or any other major life activity.

We therefore conclude that Johanning did not present evidence to support a finding that he meets the first definition of “disabled person” under the MHRA. Based on the summary-judgment record, the district court correctly concluded that there is no genuine

issue of material fact regarding the first avenue for demonstrating a disability under the MHRA.

Third Definition—Regarded as Disabled

In the alternative, Johanning argues that he satisfied the third definition of “disabled person” under the MHRA because a reasonable juror could find that Summit regarded Johanning as a person with a disability due to his alcoholism. Again, we disagree.

As an initial matter, the parties dispute the showing that a plaintiff must make to establish that the plaintiff is “regarded as” a person with a disability under the statute. Summit contends that Johanning needs to show that Summit regarded Johanning as having an impairment that *materially limits one or more major life activities*. Johanning counters that he needs to show only that Summit regarded his impairment (here, his alcoholism) as a disability *whether or not* Summit regarded his impairment as materially limiting one or more major life activities.

To resolve this dispute, we must interpret the language of Minn. Stat. § 363A.03, subd. 12, which defines the term “disability” and in turn the phrase “disabled person.” “The first step of statutory interpretation is to determine whether the statute’s language, on its face, is ambiguous.” *Hagen*, 963 N.W.2d at 169 (quotation omitted). A statute is ambiguous only “if its language is subject to more than one reasonable interpretation.” *Id.* (quotation omitted). To determine whether a statute is ambiguous, we “construe the statute’s words and phrases according to their plain and ordinary meaning.” *Id.* (quotation omitted). If the meaning of the statute is unambiguous, its plain language controls. *Hall v. City of Plainview*, 954 N.W.2d 254, 269 (Minn. 2021).

As set forth above, Minn. Stat. § 363A.03, subd. 12, defines a “disability” as “any condition or characteristic that renders a person a disabled person.” And a “disabled person is any person who (1) has a physical, sensory, or mental impairment which materially limits one or more major life activities; (2) has a record of such an impairment; or (3) *is regarded as having such an impairment.*” Minn. Stat. § 363A.03, subd. 12 (emphasis added). Considering the entire provision, the use of the phrase “such an impairment” in the third definition of “disabled person” plainly refers to “a physical, sensory, or mental impairment which materially limits one or more major life activities” as provided in the first definition. The plain language of the statute therefore requires a plaintiff proceeding under a regarded-as theory of disability to show that the employer regarded them as having an impairment *that materially limits one or more major life activities*. We note that this interpretation of Minn. Stat. § 363A.03, subd. 12, is consistent with how federal courts and this court, in one nonprecedential opinion, have understood the statute in recent years. *See, e.g., St. Martin*, 680 F.3d at 1034 (“[T]he facts here do not show how [St. Martin] was materially limited in the major life activity of working or regarded as such.”); *Fischer v. Minneapolis Pub. Schs.*, 16 F. Supp. 3d 1012, 1016 n.4 (D. Minn. 2014) (“The MHRA defines an individual ‘regarded as’ disabled as one whom others regard as having an impairment ‘which materially limits one or more major life activities.’”); *Conn v. Bic Graphic USA Mfg. Co.*, No. A18-2112, 2019 WL 4594673, at *4 (Minn. App. Sept. 23, 2019) (noting that the evidence “falls short of creating a genuine issue of material fact as to whether Bic viewed [Conn] as being materially limited in the much broader category of participating in a major life activity”).

We are not persuaded otherwise by Johanning’s argument that we should interpret the “regarded as” language as used in Minn. Stat. § 363A.03, subd. 12, in the same manner as the current federal definition of “regarded as” included in the ADA. When it was originally enacted in 1990, the ADA “regarded as” language was similar to the language found in the MHRA. *See* Americans with Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 327, 329-30 (1990) (codified at 42 U.S.C. § 12102). In 2008, however, Congress amended the ADA definition of “disability” to include the following provision:

An individual meets the requirement of ‘being regarded as having such an impairment’ if the individual establishes that he or she has been subjected to an action prohibited under this chapter because of an actual or perceived physical or mental impairment *whether or not the impairment limits or is perceived to limit a major life activity*.

ADA Amendments Act of 2008, Pub. L. No. 110-325, 122 Stat. 3553, 3555 (codified at 42 U.S.C. § 12102(3)(A)) (emphasis added). The MHRA has not undergone any similar revision. Nonetheless, Johanning urges this court to apply the ADA standard, as amended in 2008, to MHRA claims. Based on the current ADA language, Johanning argues that, to show that Summit regarded him as a person with a disability, he needs to demonstrate only that Summit “rescinded Johanning’s job offer because of his alcohol use disorder,” and does not need to demonstrate that Summit regarded his alcoholism as materially limiting a major life activity.

Minnesota appellate courts have frequently “sought guidance in the interpretations of federal antidiscrimination statutes when the state law provisions in question are similar to provisions of the federal statutes.” *Gee*, 700 N.W.2d at 553. But “[w]hen provisions of

the MHRA are not similar to provisions of federal anti-discrimination statutes,” state courts “have departed from the federal rule in [their] interpretation of the MHRA.” *Kolton v. Cty. of Anoka*, 645 N.W.2d 403, 407 (Minn. 2002). Here, the MHRA and ADA provisions are not similar. The ADA provision expressly provides that a plaintiff meets the regarded-as standard if they were subjected to an adverse employment action because of an actual or perceived impairment “whether or not the impairment . . . is perceived to limit a major life activity.” 42 U.S.C. § 12102(3)(A). The MHRA definition of “disability” contains no such language. Accordingly, Johanning’s interpretation of Minn. Stat. § 363A.03, subd. 12, is not reasonable. The only reasonable interpretation of the Minnesota statute is that it requires a plaintiff attempting to meet the “regarded as” definition of “disabled person” to show that the employer regarded them as having an impairment that materially limits one or more major life activities.

Applying that standard to the present case, we conclude that Johanning has failed to demonstrate a genuine dispute of material fact as to whether Summit regarded Johanning’s alcoholism as materially limiting a major life activity. Johanning has not identified, either to the district court or to this court, any specific major life activity that Summit purportedly believed to be limited by his alcoholism. He therefore has not presented sufficient evidence to support a finding that he meets the third definition of “disabled person” under the MHRA, and he cannot survive summary judgment under his regarded-as theory of disability.³

³ Johanning argued for the first time during oral argument that Summit regarded his alcoholism as materially limiting the major life activity of “working.” We do not consider

Conclusion

In sum, we conclude that Johanning has not raised a genuine dispute of material fact either as to whether he has an impairment that materially limits a major life activity or as to whether Summit regarded him as having such an impairment. For those reasons, Johanning cannot, as a matter of law, show that he has a “disability” within the meaning of the MHRA. Because this issue is dispositive of his appeal, we need not reach Johanning’s remaining arguments. The district court did not err by granting summary judgment in favor of Summit. In reaching this determination, we again emphasize that our conclusion is based solely on the record of this particular case.⁴

Affirmed.

arguments raised for the first time during oral argument. *Getz v. Peace*, 934 N.W.2d 347, 353 n.3 (Minn. 2019). Even if we were to consider this argument, Johanning failed to present any evidence that Summit regarded him as unable to perform any job other than the float PA position. *See State by Cooper v. Hennepin Cty.*, 441 N.W.2d 106, 112-13 (Minn. 1989) (noting that regarded-as claim alleging major life activity of working requires showing that one was regarded as precluded from more than a single job), *superseded by statute on other grounds*, 1989 Minn. Laws ch. 280, § 1, at 1100.

⁴ We note that our resolution of this case is not meant to suggest that the alleged conduct by Summit is not troubling. We have decided this case on the specific record before us, which demonstrates that Johanning failed to present evidence that he has a “disability” within the meaning of the MHRA. Our conclusion is not intended to preclude litigants from establishing a disability under the MHRA based on alcoholism, provided that there is sufficient evidence to show a material limitation of a major life activity.