

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED
FEB 28 2013
Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

Denise L. Lenkiewicz)
Plaintiff, Pro Se)
v.)
Shaun Donovan, Secretary,)
U.S. Department of Housing &)
Urban Development)

Case: 1:13-cv-00261
Assigned To : Bates, John D.
Assign. Date : 2/28/2013
Description: Employ Discrim.

COMPLAINT

**AGENCY'S FAILURE TO REASONABLY ACCOMMODATE AND FAILURE
TO REPSOND TO REQUESTS FOR REASONABLE ACCOMMODATIONS
UNDER THE ADA**

BACKGROUND

Plaintiff was employed with the Department of Housing and Urban Development (HUD) from October 2008 through November 30, 2011. Federal employee for 22 years, qualified as a Freedom of Information Act (FOIA) Specialist, in which she was hired by HUD to process requests. Most of her career was spent being sole Freedom of Information Act specialist for whichever agency she was working for. Current disabilities are; Chronic Obstruction Pulmonary Disease (COPD) with Chronic Bronchitis (asthma), tested at 40% diminished lung capacity, and tricompartmental osteoarthritis of the knees, lumbar discopathy degenerative, and the polyarthralgia.

During her tenure at HUD the plaintiff suffered from constant bouts of COPD with chronic bronchitis; from the first day of being in HUD within 2-3 hours she lost her voice and sounded as if she was suffering from flu. The first week the Plaintiff was out sick with COPD. By March 2009

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the Plaintiff was hospitalized with pneumonia for several days. By the end of 2009 the Plaintiff had been in and out of work often with the diagnosis of; COPD with chronic bronchitis. Besides having missed work for COPD, the Plaintiff broke her right foot at the end of 2009, and in March of 2010 had a meniscus tear in her right knee.

During 2009 the Plaintiff realized that the constant bouts of COPD was not normal and started to question what is she being exposed to that is causing the problem. It was approximately the beginning of 2010 while talking with the union, the union relayed that HUD had been tested for toxic mold and Chanel 7 (7 on Your Side) had done a news segment of the toxic mold found in HUD. The Plaintiff relayed that with the scooter she was using that she applied for reasonable accommodations and that with those accommodations would get her out of being exposed to the toxic mold. Request for reasonable accommodations were ignored. While out for approximately 90 days (FMLA) with the meniscus tear in the right knee, the Plaintiff had no physical problems with breathing, in fact a doctor's appointment before returning to work in June revealed that all crackling in the lungs that had been there for months was gone, that I had gained weight from being off my feet, that otherwise I hadn't felt better and looked better in a long time. The doctor remarked "your lungs are clear, you look good, what have you been doing?" Within 2 weeks of returning to HUD, the Plaintiff was rushed to the hospital from HUD, via ambulance, with low oxygen levels (respiratory distress) and the inability to breathe.

When being hospitalized with pneumonia, being taken from HUD to the hospital via ambulance, and constant episodes of COPD with low oxygen levels, the supervisor continually placed the Plaintiff on AWOL. Although the Plaintiff continually asked for reasonable accommodations, verbally and in writing, she was met with; if you don't like it here you can find another job, you need to file paperwork for reasonable accommodations, and last but not least in January of 2011 she was told by her supervisor while requesting reasonable accommodations; "well then you need retire under disability." During this time the Plaintiff was under complete respiratory distress.

Once the supervisor realized in 2010 that the Plaintiff was pursuing reasonable accommodations as in the past, it then became apparent that evaluations were down rated to minimally successful. I was rated minimally successful, although I was able to point out program deficiencies, reporting errors and made suggestions on how to fix them. I waited for the Performance Improvement Plan (PIP), which I should have received by July 1, 2010, until this day I have never received a PIP, or any improvement plan. Although I was rated below minimally successful at the end of the cycle, and I was not given a chance to rebut claims. On May 25, 2011 the Plaintiff left HUD unable to breathe, gasping for breathe, and relayed to the supervisor that she could no longer work in the building and needed accommodations, and it it's seriousness wouldn't be back to the building, On November 30, 2011 the Plaintiff was removed from her job, and reasonable accommodations request from January 2011 and other requests have never been addressed.

Plaintiff has suffered emotional and physical stress because of the unlawful treatment she received for engaging in a protected activity. She also suffered irreversible financial losses, including and not limited to the auction of the home she's lived in for 50 years, it was auctioned on February 3, 2013. The retaliatory conduct of the Employer constitutes unlawful employment discrimination and specifically violates and related regulations.

DEFENDANT IGNORED REQUESTS FOR RESONABLE ACCOMODATIONS

Defendant not only refused to accommodate the Plaintiff under the Title I of the Americans with Disabilities Act (ADA), but blithely ignored those requests. (EEOC v Starbucks) (EEOC v Celesticia Corp.) (EEOC v Banner Health)

1. 2009; written request for reasonable accommodations due to use of a scooter while and having medical problems with broken foot. Request was never responded to.
2. 2010; verbal requests for reasonable accommodations due to COPD and the inability to breathe in the office. Request was never responded to.
3. 2010: doctors notes for reasonable accommodations under the ADA while on Family medical Leave Act. Request was never responded to.
4. 2010: written request for reasonable accommodations, sighting falling into file cabinets, and other medical problems. Request was never responded to.
5. 2009 through 2011; verbal requests for reasonable accommodations were ignored. Once met with I needed to file proper paper work for any accommodations.

6. 2010: verbal request for reasonable accommodations due to COPD. Asked to be moved to HUD's other job location up the street from headquarters. Request was ignored.
7. 2011: written request for reasonable accommodations due to the inability to breathe. Request was never responded to.
8. 2011: verbal request for reasonable accommodations due to the inability to breathe. Plaintiff to retire under disability.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

The Plaintiff timely filed for Pre-Complaint Counseling and, thereafter, timely exhausted the requisite administrative remedies before the Equal Employment Opportunity Commission prior to timely filing this action. The EEOC issued a right to sue letter on November 5, 2011 and it was received 90 days of this filing

REMEDIES and RELIEF

The Plaintiff is entitled to relief under Title VII for his employer's unlawful discriminatory conduct and retaliation, including but not limited to for the Employer's disparate treatment of the Plaintiff for engaging in protected activities.

Plaintiff respectfully requests that the Court enter judgment in her favor and against the Defendant and direct the following relief:

For a money judgment representing compensatory damages, including lost wages, and all other sums of money, including retirement benefits and other employment benefits, together with interest thereon;

For a money judgment representing liquidated damages for the Defendants' willful violations of Title VII, and any related statutes, regulations and rights;

For a money judgment representing prejudgment interest;

Order directing the Defendant pay the Plaintiff front pay for those wages she would be receiving if he had been properly considered for promotion to full performance level, GS-13.

That the Court retain jurisdiction over this action until the Defendant has fully complied with Orders of this Court and that the Court require Defendant to file such reports as may be necessary to supervise such compliance, and;

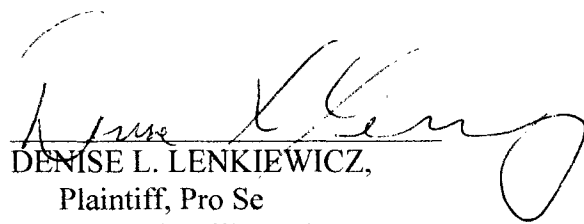
For such other and further relief as may be just and proper.

JURY DEMAND

The Plaintiff herein hereby demands a trial by jury on all issues in this action.

WHEREFORE, the Plaintiff respectfully requests that the Court enter judgment in his favor and against the Defendant.

Respectfully Submitted,

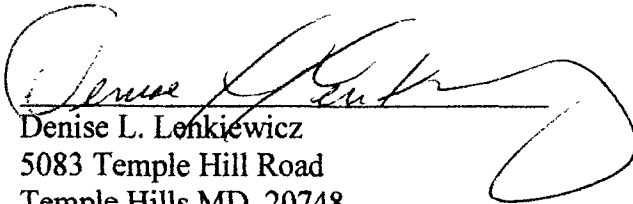


DENISE L. LENKIEWICZ,
Plaintiff, Pro Se
5083 Temple Hill Road
Temple Hills, MD 20748
(240)441-8457
Date; February 8, 2013

CERTIFICATE OF SERVICE

I hereby certify of the foregoing "Agency's Failure to Accommodate and Failure to Respond to Requests for Reasonable Accommodations Under the ADA was sent via U.S. Mail, Certified Return Receipt Requested, on this 6th of February, 2013 to the agency's representative:

Shaun Donovan, Secretary,
Department of Housing and Urban Development
c/o: Michelle Cottom
451 7th Street, SW
Room 3142
Washington, DC 20410
Phone (202)402-3884


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