2003 WL 22454440
United States District Court,
D. Minnesota.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff,
v.
SEAGATE TECHNOLOGY, L.L.C., Defendant.

No. Civ.02–1288(PAM/RLE). | Oct. 23, 2003.

Attorneys and Law Firms

Dennis R. McBride, Rosemary J. Fox, Jean P. Kamp, Equal Employment Opportunity Commission, Milwaukee, WI, for Plaintiff.

James F. Baldwin, Moss & Barnett, Mpls, MN, for Defendant.

Opinion

MEMORANDUM AND ORDER

MAGNUSON, J.

***1** This matter is before the Court on Defendant's Motion for Summary Judgment. For the following reasons, the Court grants the Motion.

BACKGROUND

The Equal Employment Opportunity Commission ("EEOC") brought this case on behalf of Vu Chu, a former employee of Defendant Seagate Technology, L.L.C.. ("Seagate"), claiming that Seagate discriminated against Mr. Chu in violation of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12101 *et seq.* Mr. Chu worked at Seagate as a shipping and receiving clerk,[1] a job which required a significant amount of lifting. A shipping and receiving clerk at Seagate was frequently required to move objects weighing 40 pounds and occasionally required to move objects weighing as much as 200 pounds.

Several months after assuming the duties of a shipping and receiving clerk, Mr. Chu began experiencing back pain. He consulted a physician, who restricted Mr. Chu's lifting to not more than 10 pounds. Mr. Chu then requested a helper and Seagate assigned a helper to him. When the lifting restrictions did not cure his back pain, Mr. Chu sought further treatment. His physicians ultimately diagnosed a tumor on Mr. Chu's spine at his tailbone. The tumor was not malignant, but was caused by a disease called neurofibromatosis, which causes nerve and skin tumors. Mr. Chu had the tumor removed on May 10, 1999. The surgery required the removal of a portion of the bone of Mr. Chu's spine, and his physicians warned that such removal could cause persistent and permanent low back pain.

Mr. Chu remained off work on medical leave until January 2000. During this time, he underwent surgery to remove other tumors. Also during this time, Seagate instituted a restructuring that resulted in a reduction-in-force ("RIF"). Through early retirement incentives and the RIF, Seagate lost 338 employees.

In January 2000, Mr. Chu contacted Seagate about returning to work on January 31, 2000. He provided Seagate with a letter from his physician that limited his lifting to not more than 10 pounds. Seagate determined that it was unable to provide Mr. Chu with a helper and thus that he would be unable to perform his previous duties. Seagate also claims that there were no positions open that Mr. Chu could perform, although the EEOC disputes that claim. In any event, Seagate informed Mr. Chu that it could not accommodate his restrictions and it terminated his employment as of January 31, 2000.

DISCUSSION

A. Standard of Review
Seagate moves for summary judgment pursuant to Rule 56(c), which provides that such a motion shall be granted only if "there is no genuine issue as to any material fact and ... the moving party is entitled to judgment as a matter of law." Fed.R.Civ.P. 56(c). When considering a motion for summary judgment, the Court must view the evidence and the inferences that may be reasonably drawn from the evidence in the light most favorable to the non-moving party. *Enter. Bank v. Magna Bank,* 92 F.3d 740, 747 (8th Cir.1996). The burden of demonstrating that there are no genuine issues of material fact rests on the moving party. *Celotex Corp. v. Catrett,* 477 U.S. 317, 323, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986). If the moving party has carried its burden, the non-moving party must demonstrate the existence of specific facts in the record that create a genuine issue for trial. *Anderson v. Liberty Lobby, Inc.,* 477 U.S. 242, 256, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986); *Krenik v. County of LeSueur,* 47 F.3d 953, 957 (8th Cir.1995).

B. ADA Claim
***2** To establish a prima facie case of disability discrimination, the EEOC must first show that (1) Mr. Chu has a "disability" within the meaning of the ADA, (2) he is a "qualified individual" under the ADA, and (3) he "suffered an adverse employment action as a result of the disability." *Fenney v. Dakota, Minnesota & E.R. Co. .,* 327 F.3d 707, 711 (8th Cir.2003). The EEOC's case fails under the first element, because there is no evidence that Mr. Chu is or was disabled as that term is defined by the ADA.

To be deemed disabled, an individual must: (1) have a physical or mental impairment that substantially limits one or more of his major life activities; (2) have a record of such an impairment; or (3) be regarded as having such an impairment. 42 U.S.C. § 12102(2). Major life activities are "functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working." 29 C.F.R. § 1630.2(i); *see also Bragdon v. Abbott,* 524 U.S. 624, 638–39, 118 S.Ct. 2196, 141 L.Ed.2d 540 (1998). The Supreme Court has clarified that the relevant inquiry is whether a the person claiming a disability has impairments that "prevent[ ] or restrict[ ][him] from performing tasks that are of central importance to most people's daily lives." *Toyota Motor Mfg. Kentucky, Inc. v. Williams,* 534 U.S. 184, 187, 122 S.Ct. 681, 151 L.Ed.2d 615 (2002).

The EEOC claims that Mr. Chu is disabled because he has physical impairments that substantially limit him in several major life activities, including sleeping, eating, caring for himself, concentrating, lifting, and bending. For the purposes of this Motion, Seagate does not dispute that Mr. Chu has physical impairments. Seagate argues, however, that these impairments do not substantially limit Mr. Chu in any major life activity.

The evidence, even taken in the light most favorable to the EEOC, establishes that Mr. Chu's impairments do not substantially limit him in any major life activity. At most, the evidence shows that Mr. Chu occasionally has some trouble sleeping, occasionally has a decreased appetite due to pain, occasionally has difficulty concentrating, and occasionally cannot lift or bend.[2] For example, Mr. Chu testified that "a few" nights every week he will wake up periodically during the night. (Chu Dep. at 165.) Although he was more tired the day after these night wakings, Mr. Chu testified that he still functioned normally throughout the day. (*Id.* at 154–55; 167.) Moreover, Mr. Chu's night waking was alleviated with pain medication. Similarly, Mr. Chu's decreased appetite is very sporadic. (*Id.* at 169.) Occasional difficulties of the sort alleged here are simply not sufficient to constitute a substantial limitation on Mr. Chu's major life activities. Although the Court has no doubt that the disease from which Mr. Chu suffers is serious and causes some impairments, those impairments do not "prevent[ ] or severely restrict[ ][him] from doing activities that are of central importance to most people's daily lives." *Toyota Motor Mfg.,* 534 U.S. at 198. Thus, the ADA does not apply to Mr. Chu.

***3** Because the EEOC has failed to establish the first element of its prima facie case, Seagate is entitled to summary judgment.

CONCLUSION
The record in this case contains no questions of fact as to whether the EEOC has established a prima facie case of disability discrimination under the ADA.

Accordingly, after review of the record, files, and proceedings herein, IT IS HEREBY ORDERED that Defendant's Motion for Summary Judgment (Clerk Doc. No.12) is GRANTED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Parallel Citations

14 A.D. Cases 1885

Footnotes

[1] Mr. Chu began working at Seagate as a part-time production operator in 1991. He was promoted to shipping and receiving clerk in November 1998.

[2] The Court finds no evidence in the record to support the EEOC's claim that Mr. Chu is substantially limited in his ability to care for himself.