

FILED

2004 SEP 28 A 11:49

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
NORTHEASTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
)
v.)
)
)
AFG INDUSTRIES, INC.)
)
)
Defendant.)
)

U.S. DISTRICT COURT
EASTERN DIST. TENN.

CIVIL ACTION NO. _____ SEP. CLERK

2:04-cv-364

COMPLAINT

JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices and to provide appropriate relief to Mr. Terry R. Johnson who has been adversely affected by such practices. The Commission alleges that Defendant, AFG Industries, Inc., failed to reasonably accommodate Mr. Johnson's sincerely held religious belief that he could not work on his Sabbath and discharged him because of his religion, Seventh Day Adventist.

JURISDICTION

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337, 1343, and 1345. This is an action authorized and instituted pursuant to §706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, et seq. ("Title VII").

2. The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the Eastern District of Tennessee, Northeastern Division at Greeneville, Tennessee.

PARTIES

3. Plaintiff, Equal Employment Opportunity Commission ("Commission") is an agency of the United States of America charged with the administration, interpretation, and enforcement of Title VII and is expressly authorized to bring this action by §706(f)(1) and (3) of Title VII, 42 U.S.C. §2000-5(f).

4. At all relevant times, Defendant, AFG Industries, Inc., was a foreign corporation doing business in the State of Tennessee and has continuously had at least fifteen (15) employees.

5. At all relevant times, Defendant has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of §701(b), (g), and (h) of Title VII, 42 U.S.C. §2000e(b), (g), and (h).

STATEMENT OF CLAIMS

6. More than thirty (30) days prior to the institution of this lawsuit, Terry R. Johnson filed a charge with the Commission alleging that AFG Industries, Inc. engaged in employment practices which violate Title VII. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Terry R. Johnson was employed as a Tech II at defendant's corporate facility in Kingsport, Tennessee.

8. In about late 2000 or early 2001, Mr. Johnson returned to the active practice of his Seventh Day Adventist beliefs.

9. In about mid-April, 2001, Mr. Johnson's supervisor assigned him to a crew beginning a project on April 30, 2001. On or about April 26, 2001, Mr. Johnson gave his supervisor written notice that he was a practicing Seventh Day Adventist and had a sincerely held religious belief that he could not work on his Sabbath, sundown Friday to sundown Saturday. He asked his supervisor for Saturday May 4, 2001 off of work as a reasonable accommodation of his religious belief.

10. The supervisor refused to accommodate Mr. Johnson's sincerely held religious belief by allowing him to take Saturday May 4, 2001 off from work or to swap assignments with another Tech not scheduled for that Saturday.

11. Mr. Johnson traveled to Louisiana with the crew but did not go to work on Saturday May 4, 2001.

12. When Mr. Johnson returned to work in Kingsport, Tennessee on about May 9, 2001, the supervisor discharged him for failing to work his scheduled hours.

13. The practices complained of above are in violation of §§ 701(j) and 703(a) of Title VII, as amended, 42 U.S.C. §§ 2000e-(j) and 2(a).

14. The effect of the practices complained of above has been to deprive Mr. Johnson of equal employment opportunities and otherwise adversely affect his status as an employee because of his religion.

15. The unlawful employment practices complained of above were and are intentional.

16. Mr. Johnson suffered emotional and psychological harm because defendant failed to accommodate his sincerely held religious belief and discharged him because of his religion, Seventh Day Adventist.

17. Defendant at all relevant times has been acting with malice or reckless indifference to the federally protected rights of Mr. Johnson.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully prays that this Court:

A. Grant a permanent injunction enjoining the Defendant, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in any employment practice which discriminates because of religion.

B. Order Defendant to institute and carry out policies, practices and programs which provide equal employment opportunities for employees with sincerely held religious beliefs which eradicate the effects of its past and present unlawful

employment practices.

C. Order Defendant to make whole Mr. Johnson by providing appropriate back pay with prejudgment interest, in an amount to be determined at trial, and other affirmative relief necessary to eradicate the effects of the unlawful employment practices, including but not limited to rightful place hiring.

D. Order Defendant to make whole Mr. Johnson by providing compensation for pecuniary losses, including but not limited to costs to be incurred for the costs of seeking new employment, in an amount to be determined at trial.

E. Order Defendant to make whole Mr. Johnson by providing compensation for nonpecuniary losses, including emotional pain, suffering, inconvenience and mental anguish in amounts to be proven at trial.

F. Order Defendant to pay punitive damages to Mr. Johnson for its malicious and/or reckless conduct, in an amount to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper.

H. Award the Commission its costs in this action.

JURY TRIAL DEMAND

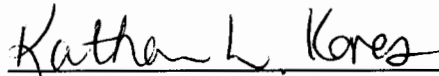
The Commission requests a jury trial on all questions of fact raised by the Complaint.

Respectfully submitted,

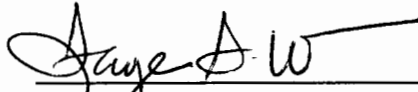
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