

The U.S. Equal Employment Opportunity Commission

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ALLSTATE'S REHIRE POLICY ADVERSELY AFFECTED OLDER AGENTS; EEOC RECEIVES FAVORABLE RULING

Court Says Jury Should Decide Whether Policy was Reasonable or Unlawful

ST. LOUIS – A federal court ruled today in a nationwide lawsuit that Allstate Insurance Company's one-year moratorium on rehiring its former sales agents had an adverse impact on older agents, the U.S. Equal Employment Opportunity Commission (EEOC) announced.

Judge E. Richard Webber, of the U.S. District Court for the Eastern District of Missouri in St. Louis, granted the EEOC's motion for summary judgment on the issue of whether Allstate's rehire policy affected workers 40 years of age or older disproportionately.

The lawsuit, filed under the Age Discrimination in Employment Act (ADEA) which prohibits discrimination against persons over 40 years of age, now will be heard by a jury to decide whether the rehire policy falls under an exception to the ADEA. According to that exception, any action based on a "reasonable factor other than age" is not unlawful.

The EEOC charged in its lawsuit that in 2000 Allstate terminated its sales agents, offered to make them independent contractors, and refused to rehire them in other positions as employees for one year. Because more than 90% of the agents were 40 years of age or older, the EEOC said that the rehire policy violated the ADEA.

Judge Webber decided that the EEOC, "has provided sufficient evidence to show a disparate impact on the protected group" of agents 40 years of age or older. Allstate argued that the court should dismiss the case without a trial because its rehire policy had no disparate impact and was based on a reasonable factor other than age. Judge Webber denied the company's motion and ordered that a jury would decide the reasonableness issue.

"This decision is an important landmark in the further development of age discrimination law," said Robert Johnson, the EEOC regional attorney for the St. Louis District. "Since the Supreme Court ruled last year that the ADEA does extend to disparate impact cases, this is one of the first court decisions applying that ruling to a new case."

Felix Miller, senior trial attorney for the EEOC, said, "Even when there is no intentional age discrimination, an employer violates the ADEA if its policy has an adverse impact on older workers and the policy was not based on a reasonable factor other than age. We fully expect to be able to prove to a jury that Allstate's policy was unreasonable."

This lawsuit is the second national lawsuit filed by the EEOC concerning Allstate's 2000 reorganization from employee agents to what the company considered independent contractors. In 2001, the EEOC filed suit claiming that Allstate unlawfully required its agents to release any employment discrimination claims if they wished to continue working as agents after the reorganization. In that first lawsuit, brought in U.S. District Court in Philadelphia, the court held that the release requirement was unlawful retaliation, but the case awaits further rulings before final resolution.

The EEOC is responsible for enforcing the nation's laws prohibiting employment discrimination based on race, color, gender (including sexual harassment and pregnancy), religion, national origin, age, disability and retaliation. Further information about the EEOC is available on its web site at its web site at www.eeoc.gov.

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