2004 WL 2496080
United States District Court,
S.D. New York.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff,
v.
TEAMSTERS LOCAL 804, Defendant.

No. 04 Civ. 2409LTS. | Nov. 4, 2004.

Opinion

MEMORANDUM ORDER

SWAIN, J.

***1** Plaintiff brings this action on behalf of John Doe against Teamsters Local 804 ("Defendant" or "Local 804"), alleging that Defendant violated Title I of the Americans with Disabilities Act of 1990 ("ADA") when it engaged in unlawful employment practices based on John Doe's disability. The Court has jurisdiction of this action pursuant to 28 U.S.C. §§ 1331, 1343, and 1345. Defendant moves pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for an order dismissing Plaintiff's Complaint. For the following reasons, Defendant's motion to dismiss is denied.

BACKGROUND

The facts alleged in Plaintiff's Complaint are taken as true for the purposes of this motion. Plaintiff Equal Employment Opportunity Commission ("Plaintiff" or "EEOC") is a governmental agency charged with the administration, interpretation, and enforcement of Title I of the ADA. (Compl.¶ 3.) Defendant Teamsters Local 804 is a labor organization that represents employees of United Parcel Service ("UPS"). (Id.¶ 4.) In 1989, UPS hired John Doe as a driver; thus, John Doe has been a member of Local 804 since that time. (Id.¶ 9.) John Doe is HIV positive and suffers from AIDS. (Id.¶ 8.) In or around 1995, John Doe requested a transfer to an indoor position as a reasonable accommodation. UPS granted this request and transferred John Doe to the position of return clerk, a position in which he continues to be employed. (Id.¶ 10.) In April 2001, Defendant disclosed confidential information regarding John Doe's medical condition to his colleagues. (Id.¶ 11.) Prior to the commencement of this action, John Doe filed a charge with the EEOC alleging that Defendant violated Title I of the ADA. (Id. ¶ 7 .)

Plaintiff filed a complaint with this Court alleging that Defendant's disclosure of John Doe's medical condition to his colleagues was a violation of Section 102 of Title I of the ADA, 42 U.S.C. § 12112(d) *et seq.* Plaintiff alleges that, as a consequence of Defendant's actions, John Doe has been deprived of equal employment opportunities and his status as an employee has been adversely affected. (Id.¶¶ 11, 17.)

DISCUSSION

In considering a motion to dismiss a complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, the Court must accept as true the allegations contained in the complaint and draw all reasonable inferences in favor of the non-moving party. *Blue Tree Hotels Inv. (Canada), Ltd. v. Starwood Hotels & Resorts Worldwide, Inc.,* 369 F.3d 212, 217 (2d Cir.2004) (citing *Gryl v.. Shire Pharm. Group PLC,* 298 F.3d 136, 140 (2d Cir.2002)). The Court should not dismiss a complaint "unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *Conley v. Gibson,* 355 U.S. 41, 45–46 (1957.)

The Supreme Court held in *Swierkiewicz v. Sorema N. A.,* 534 U .S. 506, 508 (2002), that an employment discrimination complaint need not include specific facts establishing a *prima facie* case of discrimination, but is only required to contain a short and plain statement of the claim pursuant to Rule 8(a)(2) of the Federal Rules of Civil Procedure. The short and plain statement must " 'give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests." ' *Id.* at 512 (quoting *Conley,* 355 U.S. at 47).

***2** Defendant asserts that Plaintiff's Complaint must be dismissed because it fails to allege that Defendant obtained information regarding John Doe's medical condition under any circumstance in which the ADA requires such information to be kept confidential. The ADA outlines three circumstances under which a covered entity must protect the confidentiality of an employee's medical condition or history. *See* 42 U.S.C. § 12112(d). Specifically, a covered entity is required to keep medical information confidential if it is obtained when: (1) the covered entity requires an individual to whom employment has been extended to undergo a pre-employment medical exam prior to the commencement of employ, *see* 42 U.S.C. § 12112(d)(3); (2) the covered entity requires a current employee to undergo a medical examination or respond to an inquiry

that is job-related and consistent with business necessity, *see* 42 U.S.C. § 12112(d)(4)(A); 29 C.F.R. § 1630.14(c); or (3) the covered entity conducts a voluntary medical examination that is part of an employee health program available at the work site, *see* 42 U.S.C. § 12112(d)(4)(B). Plaintiff contends that, if the facts alleged in its complaint are taken as true, a reasonable inference can be drawn that Defendant received information regarding John Doe's health in a manner covered by 42 U.S.C. § 12112(d). Plaintiff argues in the alternative that, even if Defendant did not receive the information in a manner described in 42 U.S.C. § 12112(d), the ADA still requires that it keep the information confidential.

Although Plaintiff's Complaint does not set forth specific factual allegations regarding the manner in which Defendant obtained John Doe's medical information, it cannot be said beyond doubt that Plaintiff cannot prove any set of facts in support of its claim which would entitle it to relief because Plaintiff could, consistent with the allegations in the complaint, prove a set of facts indicating that Defendant did obtain information in a manner covered by 42 U.S.C. § 12112(d).[1] For example, Plaintiff may be able to prove that UPS obtained the information through inquiries in connection with the use of sick time for medical appointments (*see* EEOC Charge ¶ 4, annexed to Decl. of Richard Brook) and that Local 804 similarly obtained the information from UPS in connection with covered inquiries into Plaintiff's ability to perform essential job functions. *See* 42 U.S.C. § 12112(d)(4)(b). The Court concludes, therefore, that Plaintiff's Complaint comports with Rule 8 and is sufficient to withstand Defendant's Rule 12(b)(6) challenge.

[1] At this stage, the Court need not address the issue of whether a non-disclosure duty arises when a covered entity obtains an employee's medical information in a manner not enumerated in 42 U.S.C. § 12112(d).

Accordingly, Defendant's motion to dismiss the Complaint is denied.

SO ORDERED.

Parallel Citations

16 A.D. Cases 307, 29 NDLR P 99