

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JONATHON H. BEDFORD,

Plaintiff,

v.

NEIGHBORHOOD CONNECTIONS, INC.,

Defendant.

ORDER

04-C-244-C

On April 22, 2004, I granted plaintiff leave to proceed in forma pauperis in this civil action for money damages and other relief brought pursuant to Title VII of the 1964 Civil Rights Act. On May 17, 2004, defendant moved to dismiss the case on the ground that plaintiff failed to obtain a right-to-sue letter before filing suit, as is required under Title VII. Now plaintiff has filed a letter dated June 15, 2004, in which he asks for permission to dismiss his case without prejudice to his refiling the action after he has exhausted his administrative remedies. I construe plaintiff's letter as a notice of voluntary dismissal pursuant to Fed. R. Civ. P. 41.

As an initial matter, I note that plaintiff does not indicate that he mailed a copy of his notice to counsel for the defendants, Robert E. Gregg and Catherine Cetrangolo.

Therefore, I am enclosing a copy of his letter to counsel with a copy of this order.

Fed. R. Civ. P. 41(a)(1) provides:

. . .an action may be dismissed by the plaintiff without order of the court (1) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment. . . .Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in any court of the United States or of any state an action based on or including the same claim.

A motion to dismiss is not an answer, and defendants have not yet moved for summary judgment. Therefore, plaintiff is free to dismiss his case voluntarily, without prejudice to his refiling his complaint at a later date. Accordingly, I accept plaintiff's notice of voluntary dismissal.

ORDER

IT IS ORDERED that this case is DISMISSED without prejudice to plaintiff's refiling the action after he has obtained a right-to-sue letter.

Entered this 18th day of June, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge