

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

JONATHON H. BEDFORD,

Plaintiff,

v.

NEIGHBORHOOD CONNECTIONS,

Defendant.

ORDER

04-C-978-C

In an order dated December 30th 2004, I granted plaintiff Jonathon Bedford leave to proceed in forma pauperis on his claims that defendant Neighborhood Connections terminated his employment in violation of Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991, 42 U.S.C. § 2000e, and the Americans with Disabilities Act, 42 U.S.C. §§ 12101–12213. Presently before the court is defendant’s motion to dismiss plaintiff’s claim under the ADA on the ground that plaintiff failed to exhaust his administrative remedies with respect to that claim. Because it appears that defendant may have submitted evidence of his exhaustion efforts with his complaint that had been altered in an effort to mislead the court, I will order the parties to appear in this court for a hearing on (date) at (time), at which time plaintiff will be required to show cause why

his entire case should not be dismissed for committing a fraud on the court.

With its motion to dismiss, defendant has submitted certified copies of complaints plaintiff filed with the Equal Rights Division of the Wisconsin Department of Workforce Development on July 21 and 25, 2003. On each of these complaints, checkmarks appear in the boxes next to the words “race” and “sex” under a heading that asks the individual filing the complaint to indicate the reasons for the alleged discrimination. None of the other boxes in this section have been checked in either complaint.

Attached to the complaint plaintiff filed to begin this lawsuit is a copy of his July 25, 2003 complaint. In this copy, the boxes next to “race” and “sex” are checked as are the boxes next to the words “disability,” “religion,” “honesty testing” and “the employer believed that I was going to file a labor standard complaint.” None of the latter four boxes are checked in the copy of the July 25 complaint submitted by defendant. Defendant suggests that plaintiff altered the form to make it appear that he had raised a claim of disability discrimination during the administrative proceedings. In his brief in opposition to defendant’s motion to dismiss, plaintiff neither confirms nor denies this allegation. He does state, however, that the administrative law judge who held a hearing in plaintiff’s case on June 10, 2004 would not allow him to amend his complaint against defendant to include a disability discrimination claim.

It appears that plaintiff may have altered his July 25, 2003 administrative complaint

in an attempt to mislead the court about the nature of of the claims he exhausted administratively. If plaintiff did alter the form attached to his complaint, I would be inclined to dismiss his entire case with prejudice as a sanction. However, before taking this step, I will give plaintiff a chance to explain this discrepancy in person.

ORDER

IT IS ORDERED that a hearing will be held on (date) at (time) at which time plaintiff must show cause why his case should not be dismissed for his filing a false document with the court.

Entered this 18th day of May, 2005.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge