

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

FREDERICK A. PUENT,

Plaintiff,

v.

CROELL REDI-MIX, INC.,

Defendant.

OPINION & ORDER

13-cv-00052-wmc

The court previously granted plaintiff Frederick A. Puent leave to proceed on his claim that his former employer, defendant Croell Redi-Mix, Inc., discriminated against him because of his age and disability in violation of the Age Discrimination in Employment Act (“ADEA”), 29 U.S.C. § 623, and the Americans with Disability Act (“ADA”), 42 U.S.C. § 12112(a). (2/14/14 Opinion & Order (dkt. #5).) In that same opinion, the court denied plaintiff leave to proceed on a retaliation claim premised on one or both of those federal statutes, but invited an amendment in which he could allege the content of his protected activity (whether he complained about discrimination based on his age, disability or both).

The court incorporates the alleged facts described in its original opinion and order. In his proposed amended complaint, Puent further alleges that:

- He complained to the Operative Manager Bill Wedephal in May 2010 that he was being “treated unfairly because of my age” (Am. Compl. (dkt. #6) p.3);
- In a meeting on January 6, 2011, he explained to Wedephal and General Manager Keith Barghahn that his unfair treatment was “due to my age” (*id.*); and
- Against on August 30, 2011, Puent again told Wedephal that “was being discriminated against due to age” (*id.* at p.4).

As previously explained, to state a claim for retaliation under the ADEA, Puent must allege that “(1) [h]e engaged in statutorily protected activity; (2) [h]e suffered an adverse employment action; and (3) there is a causal connection between the two.” *Smith v. Lafayette Bank & Trust Co.*, 674 F.3d 655, 657 (7th Cir. 2012) (citing *Everroad v. Scott Truck Sys., Inc.*, 604 F.3d 471, 481 (7th Cir. 2010); *Haywood v. Lucent Techs., Inc.*, 323 F.3d 524, 531 (7th Cir. 2003)). In his amended complaint, plaintiff now alleges that he (1) complained about discrimination based on his age; (2) he suffered adverse employment actions, including being transferred to another plant and denied hours, routine maintenance on his truck, the opportunity to select his jobs unlike his peers and employee discounts, as well as ultimately being constructively discharged; and (3) these adverse employment actions were in retaliation to his complaints about discrimination. Based on these allegations, the court will also grant plaintiff leave to proceed on an ADEA retaliation claim against Croell Redi-Mix, Inc.

ORDER

IT IS ORDERED that:

1. Plaintiff Frederick A. Puent is GRANTED leave to proceed on his additional ADEA retaliation claim against defendant Croell Redi-Mix, Inc.;
2. The summons and complaint and supplemental complaint are being delivered to the U.S. Marshal for service on defendant.
3. For the time being, plaintiff must send defendant a copy of every paper or document he files with the court. Once plaintiff has learned what lawyer will be representing defendant, he should serve the lawyer directly rather than defendant. The court will disregard any documents submitted by plaintiff unless plaintiff shows on the court’s copy that he has sent a copy to defendant or to defendant’s attorney.

4. Plaintiff should keep a copy of all documents for his own files. If plaintiff does not have access to a photocopy machine, he may send out identical handwritten or typed copies of his documents.

Entered this 3rd day of October, 2014.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge