

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

KENNETH C. ANDERSON

PLAINTIFF

VS.

CASE NO.: 4:21-cv-04012-SOH

TYSON FOODS, INC.

DEFENDANT

COMPLAINT

Introduction

This is a civil rights action brought pursuant to 42 U.S.C.S. § 2000 *et seq.* (Title VII of the Civil Rights Act of 1964, as amended), and pursuant to the Fourteenth Amendment to the United States Constitution, in order to recover damages against the defendant for the unlawful employment practices that the plaintiff, **KENNETH C. ANDERSON**, has been subjected to on account of his race and in retaliation for having complained about discriminatory treatment. The plaintiff also seeks relief pursuant to 42 U.S.C.S. § 1983, in that the unlawful employment practices were committed by the defendant. This is also an action for declaratory judgment pursuant to 28 U.S.C.S. § 2201 to declare the rights and other legal relations between the parties. The plaintiff is also seeking equitable relief and injunctive relief as well.

I.

Jurisdiction

1. Jurisdiction and venue of this Court are invoked pursuant to 28 U.S.C. §§ 1331, 1343, 1391, 42 U.S.C.S. § 2000e *et seq.* (Title VII of the Civil Rights Act of 1964, as amended)

and the Fourteenth Amendment of the United States Constitution, and retaliation for exercising his rights under 29 U.S.C.S. § 185 et seq. and pendent jurisdiction under 28 U.S.C.S § 1367.

2. Venue is proper in the Western District of Arkansas pursuant to 28 U.S.C. S. § 1391(b)(c) as the unlawful employment practices alleged to have been committed against the plaintiff were committed in the State of Arkansas, and in Howard County, Arkansas, and the defendant conducted business in the district at all relevant times herein.

II.

Parties

3. The plaintiff Kenneth C. Anderson is an African-American male, and is a resident of the United States of America.

4. The defendant, Tyson Foods, Inc, is a foreign corporation licensed to do business in the State of Arkansas, and was conducting business in Howard County, Arkansas, at all times pertinent to this cause of action.

5. The defendant Tyson Food, Inc. is an employer within the meaning of 42 U.S.C.S. § 2000e (b), (g), and (h).

6. The plaintiff was employed by the defendant, Tyson Food, Inc., in Howard County, Arkansas, as an hourly employee at all times pertinent hereto.

III.

Facts

7. The plaintiff was hired by the defendant, Tyson Foods, Inc., on October 22, 2018 as a production worker in the Nashville, Arkansas poultry processing plant.

8. The plaintiff was terminated under the false pretext that he violated the defendant's attendance policy on June 10, 2020.

9. The plaintiff, in his primary position, was responsible for dumping fifty (50) pound bags of ingredients such as flour and breading for line 8 in the cook room. The plaintiff was required to wear knee-high, rubber boots and work second shift, Monday through Friday, from 4:30 pm to 1:30 am, and some Saturdays, as production required. On some Saturdays, the plaintiff would occasionally receive a break from dumping to work on the floor cleaning debris as instructed.

10. The plaintiff was told that with good performance he would quickly rotate and move upward in the company to other positions.

11. The plaintiff put forth good work performance and dumped between three hundred (300) and four hundred (400) – fifty (50) pound bags of breading ingredients, per shift, and worked as many as twenty-one (21) consecutive days. The job was repetitive and physically demanding, and predominately performed by African American employees that usually quit after a couple of months, and the Caucasian employees would quit after two (2) weeks.

12. More than one year elapsed and the plaintiff was never moved to another position and was the only African American that held the strenuous position for such length of time.

13. Over the course of about fourteen (14) months, the plaintiff observed that his white counterparts were moved to other positions with higher pay and better working conditions, including the blender operator, line lead, ingredients room, and maintenance, on an average of two (2) weeks after starting in the same position as the plaintiff. The blender operator, line lead, ingredients room, and maintenance positions were predominately or exclusively held by Caucasian employees.

14. The plaintiff began requesting and bidding on the blender operator, line lead, and ingredients room positions more aggressively.

15. On or about Saturday, December 14, 2019, the plaintiff was instructed by his line supervisor, Shane Stone, a Caucasian male, to work in a floor position cleaning up debris and other contaminants. This position was not a promotion or pay increase, but a breakout from the dumping position.

16. As the plaintiff complied with Shane Stone's instructions, the second shift general manager, Christopher Singleton, a Caucasian male, ordered the plaintiff to return to the line position to dump ingredients. The plaintiff respectfully informed Christopher Singleton that he had been bidding on other positions after working the dump position for more than a year and had been sent to the floor position by his supervisor, Shane Stone.

17. Christopher Singleton responded, "There's the door!"

18. The plaintiff returned to the line 8 position and resumed dumping fifty (50) pound bags of ingredients as ordered.

19. On or about December 17, 2019, the plaintiff called the corporate hotline and asked to confidentially report the incident involving Christopher Singleton. The plaintiff reported that Christopher Singleton spoke to him in a degrading and hostile manner and nearly fired him for working in another area, although he was instructed to do so by his immediate supervisor and for mentioning opportunities for him to also move to the other positions he had been bidding on, considering his experience. At the end of the report, the plaintiff was asked for his badge number. Believing the report was confidential as requested, the plaintiff gave the corporate representative his badge number as requested.

20. On or about December 19, 2019, the plaintiff was summoned to meet with Danette Walton, the local human resource manager, an African American female. In that meeting, the plaintiff learned that his report to the hotline was not kept confidential. Danette Walton warned

the plaintiff that the supervisors knew his identity and the contents of his report, and then asked him if he was sure he wanted to proceed. The plaintiff declined out of fear of losing his job, since Christopher Singleton had threatened to fire him a couple of days prior.

21. On or about, January 8, 2020, Shane Stone, the plaintiff's line supervisor, instructed the plaintiff to report to work in the ingredients room, upon the request of Evan Wakefield, the first shift general manager, a Caucasian male.

22. The plaintiff, in this position, was required to wear steel toe boots and responsible for driving forklifts and stand-up jacks to position and transfer heavy pallets of ingredients for use in the cook room, unload trucks of bulk ingredients, stack heavy pallets at least three levels high, and remove and replace large waste tanks. The defendant furnished the plaintiff with a one hundred (\$100) voucher to purchase a pair of steel toe boots as required for the job. Of the three (3) employees in the ingredient room, the plaintiff was the only African American, while the other two employees were Caucasian. The position usually included a pay raise, but the plaintiff did not receive a pay increase.

23. The plaintiff worked the ingredients room position for about 7-8 weeks and obtained certifications for the stand-up jack and the forklift within that time.

24. On or about February 25, 2020, Chris Singleton ordered the plaintiff back to a line position to push meat and dump breading ingredients for lines 1-4, under the supervision of Jacob Renadar, a Hispanic male. The plaintiff was the only employee of his white counterparts ordered back to line.

25. The plaintiff's position in the ingredients room was filled with a Hispanic male.

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