

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 06-4614

LINDA DUMANN,
Appellant
v.

EQUITABLE RESOURCES, INC.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
(D.C. Civ. No. 05-cv-01113)
District Judge: Honorable Terrence F. McVerry

Submitted Under Third Circuit L.A.R. 34.1(a)
November 1, 2007

Before: RENDELL, WEIS and NYGAARD, Circuit Judges.

(Filed: December 6, 2007)

OPINION

WEIS, Circuit Judge.

Plaintiff has brought this action alleging that she was discharged from her employment at Equitable Resources, Inc. because of her age in violation of the Age

Discrimination in Employment Act of 1967, 29 U.S.C. § 621 et seq., and the Pennsylvania Human Relations Act 43, Pa. Stat. § 951 et seq. She also claims gender discrimination in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. and the PHRA.

Plaintiff was employed in the customer service department of Equitable Gas Company, an operating arm of Equitable Resources. In mid-October 2001, she began serving as the Supervisor of the Billing & Audit group and also later acted as the Customer Service Department's representative on the Mobile Data Project Team. In January 2001, Equitable Services initiated a revised employee performance evaluation system. In February 2002, plaintiff received a "L" performance rating, a category used generally for those in the lowest 10% of each department. As a result, plaintiff was placed on a performance improvement plan. On August 30, 2002, the plaintiff's employment was terminated because of poor performance and her failure to meet the plan's objectives.

The case was assigned to a Magistrate Judge who prepared an exhaustive report examining and quoting from the extensive discovery material. The report recommended the entry of summary judgment for the defendant on all counts. The Report found that defendant had articulated legitimate business reasons for the plaintiff's discharge, and that plaintiff did not provide evidence that the reasons were pretext for discrimination. The district judge adopted the report and entered judgment for the defendant.

We have reviewed the briefs of the parties and studied the comprehensive report of the Magistrate Judge. We agree that plaintiff has not shown that her discharge resulted from gender or age discrimination.

Accordingly, we will affirm the judgment of the District Court.