

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PRINCE HARDEN : CIVIL ACTION
 :
 v. :
 :
 SOUTHWARK METAL MANUFACTURING CO. : NO. 99-4666

MEMORANDUM AND ORDER

HUTTON, J.

April 30, 2001

Presently before the Court are the Defendant Southwark Metal Manufacturing Co.'s Motion for Summary Judgment Pursuant to Federal Rule of Civil Procedure 56 (Docket No. 15), the Plaintiff's Reply Memorandum in Opposition to Defendant's Motion for Summary Judgment (Docket No. 16), and the Defendant's Reply to the Plaintiff's Response to the Defendant's Motion for Summary Judgment (Docket No. 17).

I. BACKGROUND

The Plaintiff, Prince Harden, was employed by the Defendant, Southwark Metal Manufacturing Company, from May of 1987 until his employment was terminated in September of 1998. During that time, the Plaintiff was classified as a laborer who performed duties such as a truck driver and machine operator and was a member of the Laborer's Union of North America Local No. 57. The beginning of the end for the Plaintiff's employment with the Defendant appears to have occurred in February of 1998 when the Defendant changed the start time for most of its employees from 8:00 a.m. to 7:00 a.m.

As part of that change, they granted the Plaintiff's request to continue his shift start time at 8:00 a.m. due to transportation problems which hampered his ability to get to work earlier. In August of 1998, the Defendant requested that all employees remaining on the 8:00 a.m. start time again demonstrate their inability to change to the 7:00 a.m. start time. At this time, the Defendant denied the Plaintiff's request to continue at the 8:00 start time. The Plaintiff continued to arrive at 8:00 a.m. and was terminated.

After his termination, the Plaintiff filed a racial discrimination claim with the Pennsylvania Human Relations Commission and the Equal Employment Opportunity Commission. After receiving a Notice of Right to Sue, the Plaintiff filed his complaint in this Court alleging violations of Title VII of the Civil Rights Act of 1964 (Title VII) and Section 5 of the Pennsylvania Human Relations Act (PHRA). The parties proceeded to conduct discovery pursuant to the Court's scheduling order. On October 23, 2000, the Defendant filed this motion for summary judgment. In their motion for summary judgment, the Defendant attacks the following claims made by the Plaintiff both in his amended complaint and through discovery: (1) the Plaintiff was terminated by the Defendant based upon racial discrimination; (2) the Defendant was denied his alternate start time based upon his race; (3) the Defendant had a systematic pattern and practice of

paying Caucasian employees more than minority employees who were equally qualified; (4) the Defendant would only assign minority employees to the Pipe Department which endured the harshest working conditions; (5) the Defendant changed the job assignments of minority employees without changing their rate of pay and didn't require white employees to change assignments; (6) the Defendant staffed its maintenance department almost exclusively with white employees; (7) the Defendant treated complaints of dangerous conditions differently depending upon whether they were made by a white employee or a minority; (8) the Defendant's drug policy was administered in a discriminatory manner by paying white employees during the time of drug rehabilitation but not paying minorities; (9) the Defendant would provide merit raises to white employees but not to minority employees; and (10) the Defendant treated white employees more favorably when it comes to vacation time.

II. Legal Standard

Summary judgment is appropriate "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c). The party moving for summary judgment has the initial burden of showing the basis for its motion. See Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986). Ultimately, the moving party bears the burden of

showing that there is an absence of evidence to support the nonmoving party's case. See id. at 325. Once the movant adequately supports its motion pursuant to Rule 56(c), the burden shifts to the nonmoving party to go beyond the mere pleadings and present evidence through affidavits, depositions, or admissions on file to show that there is a genuine issue for trial. See id. at 324. A genuine issue is one in which the evidence is such that a reasonable jury could return a verdict for the nonmoving party. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). A fact is "material" only if it might affect the outcome of the suit under the applicable rule of law. See id.

When deciding a motion for summary judgment, a court must draw all reasonable inferences in the light most favorable to the nonmovant. See Big Apple BMW, Inc. v. BMW of N. Am., Inc., 974 F.2d 1358, 1363 (3d Cir. 1992). Moreover, a court may not consider the credibility or weight of the evidence in deciding a motion for summary judgment, even if the quantity of the moving party's evidence far outweighs that of its opponent. See id. Nonetheless, a party opposing summary judgment must do more than rest upon mere allegations, general denials, or vague statements. See Trap Rock Indus., Inc. v. Local 825, 982 F.2d 884, 890 (3d Cir. 1992). The court's inquiry at the summary judgment stage is the threshold inquiry of determining whether there is need for a trial, that is whether the evidence presents a sufficient disagreement to require

submission to a jury or whether it is so one-sided that one party must prevail as a matter of law. See Anderson, 477 U.S. at 250-52. If there is sufficient evidence to reasonably expect that a jury could return a verdict in favor of plaintiff, that is enough to thwart imposition of summary judgment. See id. at 248-51.

III. DISCUSSION

Racial discrimination cases are analyzed under the burden shifting framework put forth by the Supreme Court in McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802-05, 93 S.Ct. 1817, 1824-26 (1973). See Pivirotto v. Innovative Sys., Inc., 191 F.3d 344, 352 n.4 (3d Cir. 1999). Under that framework, the Plaintiff has the burden of establishing a prima facie case of racial discrimination, the burden then shifts to the Defendant to put forth some evidence of a legitimate, nondiscriminatory reason for the adverse employment action, and if it is successful, then the burden shifts back to the Plaintiff to prove that the Defendant's proffered explanation is pretextual. See id. The prima facie case for racial discrimination generally consists of four elements: (1) the plaintiff is a member of a protected class, (2) the Plaintiff was qualified for the position he was seeking, (3) the Plaintiff was not hired despite his qualifications, and (4) the surrounding circumstances give rise to an inference of discrimination. See id. at 352-54. Claims under Title VII and the PHRA are governed by the same legal standard. See Jones v. School Dist. of Philadelphia,

198 F.3d 403, 409 (3d Cir. 1999).

The Defendant attacks the Plaintiff's ability to make out a prima facie case of racial discrimination based on his termination because of a failure to prove the fourth element, that there exists circumstances that give rise to an inference of discrimination. In support of this proposition, the Defendant points to the fact that the Plaintiff was replaced by another minority. However, the Third Circuit has found, in the context of gender discrimination, that "'while the attributes of a successor employee may have evidentiary force in a particular case, a complainant can satisfy the fourth prong of her prima [facie] case by showing that, as here, the employer had a continuing need for someone to perform the same work after the complainant left.'" See Pivrotto, 191 F.3d at 353 (quoting Cumpiano v. Banco Santander P.R., 902 F.2d 148, 155 (1st Cir. 1990)). In the instant case, the Court finds that the Plaintiff has made out a prima facie case regarding his termination.

Addressing the second part of the burden shifting framework, the Defendant responds with, what it terms, a legitimate, nondiscriminatory reason for the Plaintiff's termination. The Defendant claims that it terminated the Plaintiff for excessive tardiness and points to their disciplinary policy. See Def.'s Mot. for Summ. J. at Exh. D, 124:10-24. However, the Plaintiff points

to a policy that he claims was in effect at the time of his dismissal. See Pl.'s Brief in Supp. for a Mot. for Summ. J. at Exh. 5. Under the Plaintiff's analysis, the termination was not in accord with the policy in force. Therefore, there is a genuine issue of material fact regarding which policy was in effect at the time of the Plaintiff's termination which casts doubt on the legitimacy of the Defendant's proffered explanation. As a result, the Court cannot grant summary judgment on this issue. As the Court has found that there is a triable issue of fact on the Plaintiff's first allegation of discrimination, the Court will forego ruling on the Defendant's other contentions at this time.

For the foregoing reasons, the Court will deny the Defendant's motion for summary judgement.

An appropriate Order follows.

