

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

GAIL LANNI, :
 :
 Plaintiff, : CIVIL ACTION
 :
 v. : NO. 01-4726
 :
 CITY OF PHILADELPHIA, :
 :
 Defendant. :

MEMORANDUM

BUCKWALTER, J.

May 30, 2002

Gail Lanni ("Plaintiff"), a pro se litigant, brings this action against Defendant, the City of Philadelphia (the "City"), alleging that it violated the Americans with Disabilities Act ("ADA") by refusing to accommodate her various medical conditions, ultimately forcing her to resign employment with the City. Presently before the Court is Defendant's Motion for Summary Judgment.¹ For the reasons stated below, Defendant's motion is GRANTED.

1. The cover page of Plaintiff's answer to Defendant's Motion for Summary Judgment states, "Plaintiff moves this Court to grant it summary judgment and to dismiss the Defendant's Motion to dismiss." The Court treats Plaintiff's papers as a memorandum in opposition to Defendant's Motion for Summary Judgment only and not as a cross-motion for summary judgment because Plaintiff's papers were filed after the deadline for dispositive motions.

I. FACTS

Plaintiff began employment with the City Police Department as a police communications dispatcher in 1987. She received a permanent appointment in 1989 and remained in the position of police communications dispatcher until she resigned in 2000.

In 1994, Plaintiff made known to her supervisors that she suffers from a permanent medical condition known as cryofibrinogenemia, which causes her extreme pain when she is exposed to cold temperatures. Plaintiff also suffers from Raynaud's disease, a disease marked by spasms of the blood vessels in the limbs, initiated by exposure to cold and by emotional strain. Plaintiff often complained that the temperature of the radio room was uncomfortably cold for her and requested on numerous occasions that either the air conditioner be lowered or the temperature be raised. Plaintiff also requested the use of a space heater and that she be moved to a work area where the temperature would be more suitable to her condition.

Throughout Plaintiff's employment, she performed her work well and received satisfactory job evaluations from her supervisors. However, beginning in 1999 Plaintiff's attendance record began to decline. In August 2000, Plaintiff decided to

quit her job with the City Police Department. Plaintiff filed the instant action on September 18, 2001.

II. STANDARD

A motion for summary judgment shall be granted if the Court determines "that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). In addition, "[i]nferences to be drawn from the underlying facts contained in the evidential sources . . . must be viewed in the light most favorable to the party opposing the motion. The non-movant's allegations must be taken as true and, when these assertions conflict with those of the movant, the former must receive the benefit of the doubt." Goodman v. Mead Johnson & Co., 534 F.2d 566, 573 (3d Cir. 1976). However, if the nonmovant's evidence is merely colorable, or is not significantly probative, or just raises some metaphysical doubt as to the material facts, summary judgment may be granted. Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586, 106 S. Ct. 1348, 1355, 89 L. Ed. 2d 538 (1986), Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249-50, 106 S. Ct. 2505, 2511, 91 L. Ed. 2d 202 (1986).

III. DISCUSSION

Plaintiff contends that she was forced to resign her employment because the City failed to accommodate her various

medical conditions, which she says amount to ADA disabilities. But Plaintiff's claim fails at the very threshold of ADA analysis: the need to show that she is "disabled" in the statutory sense.

The ADA defines an individual's disability as:

- (A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- (B) a record of such impairment; or
- (C) being regarded as having such impairment.

42 U.S.C. § 12102(2).

Plaintiff proceeds under the first theory. That is, she alleges that she has a physical impairment² which substantially limits one or more major life activities. Major life activities under the ADA include "functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working." 45 C.F.R. § 84.3(j)(2)(ii); 28 C.F.R. § 41.31(b)(2).

Courts deciding whether an individual is limited in a major life activity should consider: (1) the nature and severity of the impairment; (2) the duration or expected duration of the

2. Defendant does not dispute that Plaintiff has a physical impairment. The ADA defines a physical impairment as (1) Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine. See 29 C.F.R. § 1630.2(h).

impairment; and (3) the permanent or long term impact of or resulting from the impairment. See 29 C.F.R. § 1630(j)(2).

Although Plaintiff has asserted the existence of impairments, cryofibrinogenemia and Raynaud's, she has not identified any major life activity that is substantially limited by those impairments. Plaintiff's memorandum in opposition to Defendant's Motion for Summary Judgment suggests that her ailments affect major life activities such as "[t]he ability to touch and use her hands along with gripping, walking, and running[.]" However, Plaintiff does not provide any documentation whatsoever in support of her claim that she is limited in her ability to perform these categories of major life activities, other than her conclusory statements.

In support of her claim, Plaintiff provides medical definitions of cryofibrinogenemia and Raynaud's. Such information only provides a general background on her alleged condition, and does not provide any reliable evidence as to the severity, duration and nature of Plaintiff's specific condition. Plaintiff also provides her doctor's bills for office visits. None of these records, however, support her claim that she is limited in a major life activity. Plaintiff also submits doctors' letters, which support her requests to change work areas and reduce her work schedule to limited duty. These letters may point to an inference that Plaintiff was substantially limited in

the major life activity of working, however, Plaintiff does not advance as an idea for consideration that her impairments substantially limited her in the major life activity of working. To the contrary, Plaintiff maintains, and the record establishes, that she performed well at work. Plaintiff's self-authored memorandum informing her commanding officer of her condition, her affidavit attesting to her condition on an Equal Employment Opportunity Commission ("EEOC") form, and her charge of discrimination filed with the EEOC, all speak to the great pain suffered by Plaintiff, but are largely conclusory and do not address the permanent or long term impact resulting from the pain.

Lastly, Plaintiff submits an ADA Intake Questionnaire, which asked Plaintiff to describe her disability and to describe in general what major life activities are affected by the disability. Plaintiff's response reported that she could not type because her fingers were so cold that they turned blue, that she could not go skiing, sledding or any other winter sport or pastimes, that she could not shovel snow or ice, that she could not wait for the bus in the winter and that she had to be careful what clothing she wore in the summertime because of her sensitivity to air-conditioned spaces. The term "major life activities" refers to "those activities that are of central importance to daily life." Toyota Motor Mfg., Ky., Inc. v.

Williams, 534 U.S. 184, 122 S. Ct. 681, 691, 151 L. Ed. 2d 615 (2002). Plaintiff has not explained why typing, skiing, and shoveling snow should be considered "central to daily life," and consequently cannot be relied upon as evidence that she was substantially limited in a major life activity.

IV. CONCLUSION

Plaintiff has failed to present any credible evidence as to the nature and severity of the impairment, the duration or expected duration of the impairment, or the expected permanent or long term impact of or resulting from the impairment. Therefore, Plaintiff has not met her threshold burden of demonstrating that she is disabled within the meaning of the ADA.

For the foregoing reasons Defendant's Motion for Summary Judgment is GRANTED.

An appropriate Order follows.

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	:	
CITY OF PHILADELPHIA,	:	
	:	
Defendant.	:	

ORDER

AND NOW, this 30th day of May, 2002, upon consideration of Defendant's Motion for Summary Judgment (Docket No. 9) and Plaintiff's response in opposition thereto (Docket No. 11), it is hereby **ORDERED** that Defendant's motion is **GRANTED**.

This case is marked **CLOSED**.

BY THE COURT:

RONALD L. BUCKWALTER, J.