

IN THE CHANCERY COURT OF HAMILTON COUNTY, TENNESSEE

KAREN M. DRAKE

*

PLAINTIFF,

*

DOCKET NO: 12-0820

V.

*

PART _____

UNIVERSITY OF TENNESSEE

*

JURY DEMAND

AT CHATTANOOGA and

*

TRUSTEES OF THE UNIVERSITY

*

OF TENNESSEE

*

DEFENDANT.

COMPLAINT

COMES NOW Plaintiff, by and through her attorney, and for a Complaint would show the Court the following:

1. The jurisdiction of this Court arises pursuant to Title VII of the Civil Rights Act of 1964, 42 USC §2000- e et seq., 28 USC §1345, §707 (b) of Title VII of the Civil Rights Act, 42 USC §2000 E-6(b) and TCA §4-21-311.
2. Plaintiff is a resident of Hamilton County, Tennessee, and was employed by Defendant at the University of Tennessee at Chattanooga ("UTC") in Hamilton County, Tennessee.
3. The Defendant as an employer is defined by TCA §4-21-102(4) and 42 USCA§2000 e, and is thereby subject to the provisions of the Tennessee Human Rights Act and Title VII of the of the Civil Rights Act.
4. Plaintiff is a member of the class of persons protected by the foregoing acts and statutes in that Plaintiff is African American, Female, and over the age of 40.
5. Plaintiff was hired by Defendant effective September 11, 2006, by Nathaniel Pinkard

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who was then the only African- American employed in the Development Division of the UTC at Chattanooga. He has since retired. Plaintiff was hired as an Administrative Support Assistant, III. This mainly has a clerical function which assists the Chancellor, Vice Chancellor, and Solicitors in the Development Division of UTC which solicits funds from individuals and/or organizations.

6. Defendant, Board of Trustees, is a governmental agency established by the State of Tennessee pursuant to TCA §49-9-901.

7. The Development Division of UTC had between 9 – 11 employees during the period of time that Plaintiff was employed by Defendant. There were three other employees who had the same job title and responsibilities as did Plaintiff. These were Suzanne Brown employed by Defendant on June 13, 2005, and her date of birth is 6/25/1952; Susan D. Wendorf, employed by Defendant on November 4, 2002, and her date of birth is 12/8/55, and Joyce Powell.

8. In 2007 the Development Department Director died and Patricia G. Branam was hired to replace her. At all times relevant to this action, all the other employees of the Development Department were Caucasian.

9. At all times relevant to this action Plaintiff performed her duties in an efficient manner and without any administrative discipline. At the time of her discharge she was an employee in good standing with Defendant.

10. During Plaintiff's employment, her co-worker, Susan Wendorf, engaged in a course of harassment toward Plaintiff. Her harassment was constant and engaged in such things as lunch breaks, the type of furniture Plaintiff purchased for her office, and who got to take off work. Susan Wendorf would frequently say after making complaints towards Plaintiff in a loud voice so that the entire office could hear "I didn't think they would hire Blacks for this Department"

or words of the same type and character. Plaintiff complained to Pat Branam about this harassment but Branam informed her not to worry about it, that she would talk to Susan Wendorf and strongly requested that Plaintiff not go to Human Resources with this Complaint. After this conversation the harassment by Susan Wendorf continued.

11. In the Fall of 2009 Defendant brought in a young white female believed to be approximately the age of 21. Her last name is unknown, her first name is believed to be Elizabeth. Defendant specifically had Plaintiff train this young woman to do her job functions.

12. In the Fall of November, 2009, Plaintiff's daughter, was a student at UTC. She had pledged herself to Delta Sigma Theta Sorority. In the process of her joining the Sorority, she was hazed. Through a subsequent process, both Plaintiff's daughter and Plaintiff were assaulted by members of this Sorority. Plaintiff and her daughter then brought criminal charges and civil charges against the perpetrators and sent a notice to sue letter to Defendant. There were disciplinary actions brought against the Sorority by UTC. These events were highly publicized at the UTC and virtually everyone was aware of them. All decision makers connected to this action were aware of these allegations and complaints.

13. On or about March 19, 2010, Plaintiff was summoned to the office of Pat Branam. There she was informed that she was being discharged. The effective date of her discharge was to be June 30, 2010. Then she was informed to go home and work from home. She was advised to seek further employment at Defendant.

14. Immediately after Plaintiff left on or about March 24, 2010, her position was replaced by the unnamed white 21 year old female who began performing her work functions.

15. Defendant has offered three different explanations for Plaintiff's discharge. The first is

contained in her separation notice which states that the reason for her discharge is "lack of work". A copy of the separation notice is attached to this Complaint as Exhibit "A" and incorporated by reference herein. The second is in Plaintiff's employee clearance form which states that the reason for her discharge was "reduction in force due to reorganization". A copy of this form is attached to this Complaint as Exhibit "B" and incorporated by reference herein. The third is contained in a letter dated March 18, 2010, which blames the discharge on a 6% Budget Cut. A copy of this letter is attached to this Complaint as Exhibit "C" and incorporated by reference herein.

16. All of these explanations are pretextual and false. Rather than having lack of work there was a substantial work load. There was no reorganization in the Department. Rather than cut the Department Budget, it was increased by hiring new employees effective within a few days after Plaintiff's discharge date. For instance, Christina J. Mannarino, (white female) was hired June 14, 2010 as Director of Development. Mary Ollie Newman (white female) was hired December 14, 2010, as Director of Annual Giving.

17. Part of Defendant's explanation for Plaintiff's discharge in its Position Statement to the EEOC was that the Plaintiff was discharged because of the seniority system. Neither UTC nor the Development Department has a seniority system that applies to these circumstances. All of Defendant's explanations for Plaintiff's discharge are pretextual. Even if there was some sort of seniority in effect, it had a disparate impact on minorities. The decision was made because of Plaintiff's protected status as a female, African-American, and over the age of 40.

18. Plaintiff has filed a charge with the Equal Employment Opportunity Commission, and

such Commission has investigated the charges and has issued a Right to Suit Letter. A copy of the Right to Suit letter is attached to this Complaint as Exhibit "D" and incorporated by reference herein.

19. The Plaintiff has exhausted all administrative remedies set forth by law. Such remedies have proved unavailing, and permanent declaratory and injunctive relief by this Court is now appropriate.

20. Plaintiff is within the class of persons protected by the above cited statutes.

21. Plaintiff has had to retain the services of an attorney in order to pursue this action.

22. Subsequent to Plaintiff's discharge she pursued numerous opportunities with the Defendant. She was not selected for any of these opportunities in retaliation for her actions against the Defendant as described in Paragraph 12 herein above.

23. As a direct result of the wrongful acts of the Defendant in terminating Plaintiff and failing to rehire Plaintiff because of her race, sex and age, Plaintiff has lost and will continue to lose her salary, opportunities for advancement, and employee benefits which she would have earned had she been allowed to continue this employment with the Defendant. Further, Plaintiff has sustained and suffered great mental anguish resulting from the embarrassment and humiliation which she experienced because of the discriminatory practices of the Defendant.

WHEREFORE, Plaintiff demands Judgment as follows:

A. For service of process upon Defendant;

B. For damages for lost wages, ("back pay") and the value of all employment benefits which she has lost from the date of Defendant's discriminatory acts;

C. That the Court issue an injunction requiring Defendant to rehire Plaintiff at her

former position or in an equivalent job with all employment rights and benefits to which she should have been entitled but for her termination or, in the alternative, to award Plaintiff front paying benefits in lieu of reinstatement;

D. Damages for humiliation and embarrassment, pain and suffering, and emotional distress as are allowed in the provisions of TCA §4-21-101;

E. Attorney's fees and costs as are allowed by law;

F. For a trial by jury; and

G. Such other further and general relief as to which Plaintiff may be entitled.



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