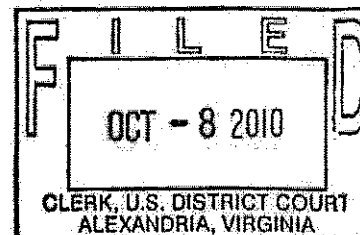


IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION



Loretta Jackson,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:10cv300 (GBL)
)	
Brian Olivia, et al.,)	
)	
Defendants.)	
)	

MEMORANDUM ORDER

THIS MATTER is before the Court on Defendants' Motion to Dismiss the Complaint pursuant to Rules 12(b)(1) and (6) of the Federal Rules of Civil Procedure. (Dkt. No. 6.) Plaintiff, Ms. Loretta Jackson, was fired by Armstrong Management Services ("Armstrong") on September 7, 2007. Ms. Jackson alleges Armstrong terminated her based on her race in violation of Title VII of the Civil Rights Act of 1964. The issue before the Court is whether the Court lacks subject matter jurisdiction because Ms. Jackson failed to file an administrative charge against Defendants, Brian Olivia and Shadowood Condominium Association ("Shadowood"), prior to filing a complaint in federal court. The Court concludes that Defendants' Motion to Dismiss should be GRANTED because the Court lacks subject matter jurisdiction to decide the claim under 42 U.S.C. § 2000e-5(f)(1) (2006).

I. BACKGROUND

Ms. Jackson is an African-American woman who Armstrong hired as an assistant property manager in July of 2007. (Compl. Ex. 1, at 3.)¹ Armstrong provided property management services to Shadowood pursuant to its contractual obligations. (Defs.' Mot. to Dismiss, at 5.) At the time of her hiring, Armstrong assigned Ms. Jackson to work as assistant manager at Shadowood. (Compl. Ex. 1, at 1, 3.)

Ms. Jackson was terminated by Armstrong on September 7, 2007. (Compl. Ex. 1, at 3.) Ms. Jackson alleges that Armstrong terminated her because of her race and at the repeated request of the President of Shadowood's Board of Directors, Mr. Brian Olivia. (*Id.*)

On October 10, 2007, Ms. Jackson filed an employment discrimination charge against Armstrong with the Fairfax County Human Rights Commission. (Compl. Ex. 1, at 3-4.) The charge did not name Mr. Olivia or Shadowood as respondents. (*Id.*) On December 29, 2009, Ms. Jackson received a Dismissal and Notice of Rights ("Dismissal") from the Equal Employment Opportunity Commission ("EEOC"). (Compl. Ex. 1, at 2.) The Dismissal stated that following an investigation of the allegations made

¹ All numerical references to the Complaint are to the page number assigned to it through electronic filing with PACER.

in Ms. Jackson's charge, the EEOC was unable to conclude that Armstrong was in violation of Title VII. (*Id.*) The Dismissal further provided Ms. Jackson with ninety (90) days from her receipt of the Dismissal to file a civil action in federal or state court against the respondent named in the charge. (*Id.*)

On March 29, 2010, Ms. Jackson filed this Complaint against Mr. Olivia and Shadowood. (Dkt. No. 1.) Thereafter, Defendants moved to dismiss the Complaint for lack of subject matter jurisdiction.² (Dkt. No. 6.)

II. DISCUSSION

A. Standard of Review

Federal Rule of Civil Procedure 12(b)(1) allows a defendant to move for dismissal when the court lacks jurisdiction over the subject matter of the action. FED. R. CIV. P. 12(b)(1). In considering a 12(b)(1) motion to dismiss, the burden is on the plaintiff to prove that federal subject matter jurisdiction is proper. See *United States v. Hays*, 515 U.S. 737, 743 (1995) (citing *McNutt v. Gen. Motors Acceptance Corp.*, 298 U.S. 178, 189 (1936)); *Adams v. Bain*, 697 F.2d 1213, 1219 (4th Cir. 1982). There are two ways in which a defendant may present a 12(b)(1)

² Defendants concurrently moved to dismiss the Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a plausible claim upon which relief can be granted. (Dkt. No. 6.) The Court does not address the grounds for this request for relief because the Court concludes that it lacks subject matter jurisdiction to decide the claims set forth in the Complaint.

motion. First, a defendant may attack the complaint on its face when the complaint "fails to allege facts upon which subject matter jurisdiction may be based." *Adams*, 697 F.2d at 1219. In such a case, all facts as alleged by the plaintiff are assumed to be true. *Id.*

Alternatively, a 12(b)(1) motion to dismiss may attack the existence of subject matter jurisdiction over the case apart from the pleadings. See *Williams v. United States*, 50 F.3d 299, 304 (4th Cir. 1995) (citing *Mortensen v. First Fed. Sav. & Loan Ass'n*, 549 F.2d 884, 891 (3d Cir. 1977)); *White v. CMA Constr. Co.*, 947 F. Supp. 231, 233 (E.D. Va. 1996). In such a case, the trial court's "very power to hear the case" is at issue. *Mortensen*, 549 F.2d at 891. The district court is then free to weigh the evidence to determine the existence of jurisdiction. *Adams*, 697 F.2d at 1219. "No presumptive truthfulness attaches to the plaintiff's allegations, and the existence of disputed material facts will not preclude the trial court from evaluating for itself the merits of jurisdictional claims." *Mortensen*, 549 F.2d at 891.

B. Analysis

The Court grants Defendants' Motion to Dismiss for lack of subject matter jurisdiction because Ms. Jackson failed to name

either Mr. Olivia or Shadowood in her administrative charge filed on October 10, 2007.

Title VII of the Civil Rights Act of 1964 sets forth a jurisdictional prerequisite to initiating a judicial proceeding. Specifically, the statute states that "a civil action may be brought against the respondent named in the charge." 42 U.S.C. § 2000e-5(f)(1). Thus, under Title VII, a plaintiff must file an administrative charge before filing a civil action. With limited exceptions, the parties named as defendants in the civil action must be the same as the parties named as respondents in the administrative charge. See *Alvarado v. Bd. of Trs. of Montgomery Cmty. Coll.*, 848 F.2d 457, 460 (4th Cir. 1988) (holding that there was no functional difference between the Board of Trustees of Montgomery Community College and Montgomery Community College).

The naming requirement serves two purposes: (1) it notifies the charged party of the alleged violation, and (2) it provides the parties with an opportunity for settlement without litigation. *Id.* at 458-89. Where a plaintiff has not named the defendants to a civil action in a prior administrative charge, the court lacks subject matter jurisdiction to decide the Title VII claim.

The Court lacks subject matter jurisdiction in this case because Ms. Jackson failed to name as parties in her Complaint

the same parties she named in her administrative charge. On October 10, 2007, Ms. Jackson filed an administrative charge against Armstrong with the Fairfax County Human Rights Commission. (Compl. Ex. 1, at 3-4.) The charge alleged wrongful termination by Armstrong on the basis of race in violation of Title VII. (*Id.*) On December 29, 2009, Ms. Jackson received a Dismissal of her charge from the EEOC. (Compl. Ex. 1, at 2.) The Dismissal provided that Ms. Jackson had ninety (90) days to bring a civil action against the respondent named in the charge. (*Id.*); see also 29 C.F.R. § 1601.19 (2010). Armstrong was the sole respondent named in Ms. Jackson's administrative charge. (Compl. Ex. 1, at 3.)

Ms. Jackson filed the present action against Mr. Olivia and Shadowood on March 29, 2010, the last possible day on which an action could have been filed. (Compl. 1.) Armstrong was not named as a defendant in the present action. (*Id.*) Moreover, Ms. Jackson does not allege in her Complaint that Mr. Olivia and Shadowood are the same, or substantially the same, entity as Armstrong for purposes of her employment.

The Defendants' Motion to Dismiss for lack of subject matter jurisdiction is GRANTED because Ms. Jackson failed to bring the present action against the respondents named in her administrative charge.

