

RECEIVED

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

2014 OCT -3 AM 11:38
CLERK, US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

RONALD B. COLLINS, JR.

Plaintiff,

CASE NO.: 8:14-cv-2503-T-30TGW

v.

KEY SAFETY SYSTEMS, INC.

Defendant.

_____ /

COMPLAINT

Plaintiff, Ronald B. Collins, Jr. ("Collins"), by the undersigned attorneys, makes the following averments:

1. This civil action is brought pursuant to the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. §§ 4301, *et seq.*, ("USERRA" or "Act").

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to 38 U.S.C. § 4323(b).

3. Venue is proper in this district under 38 U.S.C. § 4323(c) and 28 U.S.C. § 1391(b)(2). Defendant Key Safety Systems, Inc. ("KSS") is a private employer that maintains places of business in the district of this United States District Court, and a substantial part of the events giving rise to the claims in this action occurred in this district.

PARTIES

4. Collins resides in Seffner, Florida.

5. KSS is headquartered in Sterling Heights, Michigan and operates business facilities in Lakeland, Florida and is otherwise an employer within the meaning of 38 U.S.C. § 4303(4)(A).

FACTUAL ALLEGATIONS

6. At all times material hereto, Collins was member of the United States Army National Guard, where he has served since March 8, 2008. Collins served as a Sergeant with the 3rd and 116th Field Artillery Unit based in Arcadia, Florida.

7. On April 5, 2012, Collins was first hired by KSS and began working at KSS's Lakeland, Florida facility.

8. Collins was hired by KSS to the position of Material Coordinator I. While employed as a Material Coordinator I, Collins earned \$18.19 per hour.

9. In or around late October 2012, Collins notified KSS, specifically Steve Lowder ("Lowder"), Plant Manager; Laura Belford ("Belford"), HR Director; and Connie Crews ("Crews"), immediate supervisor that he was being deployed on February 20, 2013 for one year. Crews told Collins that KSS would have to temporarily fill his slot for one year. At the time of his announcement, Collins had received no prior disciplinary actions.

10. On December 12, 2012, Collins met with Belford and Crews who told him that, effective immediately, he was being demoted to the position of Assembly Coordinator. The demotion resulted in a reduction in pay from \$18.19 per hour to \$11.57 per hour.

11. At the time of the demotion, Collins was not provided with any evidence that was used in the decision to demote him. Collins was also not given an opportunity to respond to the alleged performance deficiencies resulting in his demotion.

12. On or about January 15, 2013, the United States Department of Labor opened an investigation into Collins' complaint that alleged that KSS violated his rights under USERRA by demoting him because of his upcoming military deployment.

13. In February of 2013, Collins was called up to active duty military status.

14. Following its investigation, the Department of Labor determined that Collins' USERRA rights had been violated and that his claim had merit. The Department of Justice agreed, resulting in the filing of this case.

15. Collins returned from his deployment in or around January 2014. Upon his return from deployment, Collins was returned to the demoted position at the lower pay rate of Assembly Coordinator at KSS.

16. On February 5, 2014, while Collins was standing at the time clock, his shift supervisor asked him, "why haven't you quit yet?"

17. On or about February 14, 2014, Collins submitted his letter of resignation to KSS.

COUNT 1: COLLINS' DEMOTION IN VIOLATION OF USERRA

18. Collins repeats the allegations contained in paragraphs 1 through 17.

19. Pursuant to 38 U.S.C. § 4311, USERRA prohibits discrimination in employment against an individual on the basis of his or her military service. Specifically, 38 U.S.C. § 4311 provides that "[a] person who is a member of . . . a uniformed service shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership, application for membership, performance of service, application of service, or obligation."

20. KSS violated the abovementioned provisions of USERRA by, among other ways, demoting Collins on the basis of his military service following Collins' announcement that he was being deployed.

21. KSS's violations of USERRA were willful in that KSS showed reckless disregard for whether its conduct was prohibited by the provisions of USERRA.

22. Because of KSS's actions in violation of USERRA, Collins suffered a substantial loss of earnings and other benefits.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Collins prays that this Court grant the following relief:

- A. Declare that Defendant KSS's demotion of Plaintiff Collins following the announcement of his military deployment was unlawful and in violation of USERRA;
- B. Declare that KSS's violations of USERRA were willful;
- C. Order Defendant KSS to comply fully with the provisions of USERRA by paying Plaintiff Collins for his loss of earnings and other benefits suffered by reason of KSS's failure and refusal to comply with the provisions of USERRA and an equal amount of liquidated damages;
- D. Award Plaintiff Collins prejudgment interest on the amount of lost earnings and other benefits found due;
- E. Enjoin Defendant KSS from taking any action in violation of USERRA; and
- F. Grant Plaintiff Collins such additional relief as may be just and proper, together with its costs and disbursements in this action.

JURY DEMAND

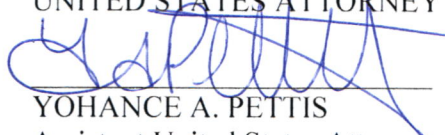
Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury.

Date: October 30, 2014

Respectfully submitted,

A. LEE BENTLEY, III
UNITED STATES ATTORNEY

By:



YOHANCE A. PETTIS
Assistant United States Attorney
Florida Bar No. 021216
400 N. Tampa Street, Suite 3200
Tampa, Florida 33602
Telephone: (813) 274-6000
Facsimile: (813) 274-6198
yohance.pettis@usdoj.gov

RECEIVED
U.S. ATTORNEY

OCT 03 2014

MIDDLE DISTRICT OF FLORIDA
TAMPA