NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted May 4, 2023*
Decided May 22, 2023

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 22-2883

DEANN GRAHAM,
Plaintiff-Appellant,

v.

HERRON PROPERTY MANAGEMENT LLC & JILL HERRON,
Defendants-Appellees.

Appeal from the United States District Court for the Northern District of Indiana, South Bend Division.

No. 3:21-CV-530-JD

Jon E. DeGuilio,
Chief Judge.

O R D E R

After a series of disputes with the company that manages her apartment in Elkhart, Indiana, DeAnn Graham filed suit, invoking, among other laws, the Fair Housing Act. The district court dismissed the case for failure to state a claim. We affirm.

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

We accept the well-pleaded facts from the complaint as true and draw reasonable inferences in Graham's favor. *Wilson v. Warren County*, 830 F.3d 464, 467 (7th Cir. 2016). In doing so, we consider Graham's exhibits to be part of her pleadings. FED. R. CIV. P. 10(c); *O'Brien v. Village of Lincolnshire*, 955 F.3d 616, 621 (7th Cir. 2020). Graham, who is African American, resides with her daughters in a building managed by Herron Property Management LLC ("Herron"). Her daughters have physical and mental health challenges, one was the victim of a serious crime, and at least one requires an emotional support dog. We mention these conditions because Graham emphasizes her daughters' vulnerabilities.

Graham maintains that Herron agents and employees began harassing her family as soon as the company took over from another landlord. She points to a few main disputes. First, Herron told her—incorrectly—that she owed money for unpaid rent, fees, and water bills; staff confronted her and left "humiliating notes" on her door. Second, Graham's apartment required repairs for leaky plumbing and a faulty water heater, but Herron made scheduling repairs difficult. Graham wanted to be home during any inspection or repairs because her daughters cannot be around strangers. Graham took time off work to be at home, but on multiple occasions, the contractor was late or did not show up. When Graham objected, Herron replied: "We are dealing with a contractor and the fact that you are requesting to be home"—a response Graham described as "contemptuous." Herron refused to reimburse Graham for the excess water bill and the heater repair.

Third, Herron harassed the family about the emotional support dog. Suggesting that it was an unauthorized pet, Herron requested documentation that the dog was a prescribed emotional support animal. Graham had provided that documentation to the prior landlord. Likewise, Herron told Graham that the breed of dog was "unauthorized" in the building, even though Herron knew that the prior landlord had approved it. Herron then offered to waive all unpaid pet fees and future fees for six months if Graham registered the dog as a pet with the complex, but she insists that Herron already has the documentation and was simply harassing her.

After complaining to the U.S. Department of Housing and Urban Development, Graham sued Herron, alleging that it violated the Fair Housing Act, discriminated against her family based on race and disability, engaged in torture, and defamed her, among other things. (She also sued Jill Herron, the CEO of the company, but agreed to her dismissal and does not challenge it now.) Herron moved to dismiss the complaint for failure to state a claim, and the district court granted that motion. The court ruled that the complaint's conclusory allegations of discrimination and harassment were

insufficient to state a claim under the Fair Housing Act or any other theory Graham appeared to invoke. Accordingly, the court dismissed the federal claims and dismissed, without prejudice, any potential state-law tort claim. The court entered judgment without allowing Graham to amend her complaint.

We begin with a note on jurisdiction. We have jurisdiction under 28 U.S.C. § 1291 to review appeals of final decisions. Neither the district court's written decision nor the Rule 58(a) judgement order specifies, as they should, whether the federal claims were dismissed with or without prejudice. This matters because dismissal of a complaint without prejudice generally is not a final decision, and thus is not appealable. *See Hernandez v. Dart*, 814 F.3d 836, 840 (7th Cir. 2016). However, by relinquishing supplemental jurisdiction over any state claims and dismissing them without prejudice, the district court signaled that the federal claims were not subject to amendment. Because the court was "finished with the case," our jurisdiction is secure. *Id.* at 841.

On appeal, Graham generally restates that Herron discriminated against and harassed her and her family because of their race and her daughters' disabilities. We review the dismissal de novo. *Wilson*, 830 F.3d at 467. To state a claim for relief, a federal plaintiff need provide "only enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). A claim meets that standard if backed by "factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Twombly*, 550 U.S. at 556).

The conclusory statements in Graham's complaint and accompanying submissions do not add up to a plausible claim. Under the Fair Housing Act, it is unlawful to deny a dwelling or otherwise alter the terms and conditions of rental to anyone based on race or disability. *See* 42 U.S.C. § 3604(a), (b), (f); *Wilson*, 830 F.3d at 467. Regarding discrimination, Graham's assertion that she is disadvantaged by structural racism does not permit the inference that racial animus motivated Herron's actions. *See Iqbal*, 556 U.S. at 680–83. Nor does the fact of her daughters' disabilities alone imply that Herron targeted the family for that reason. *See id.* Further, the pleadings show that the only potential accommodations at issue, *see* 42 U.S.C. § 3604(f)(3), were given, if not as quickly or easily as Graham wanted. Herron accepted Graham's request to be home when the contractor was present and agreed to allow the emotional support dog, if Graham registered it. *See Scheidler v. Indiana*, 914 F.3d 535, 541 (7th Cir. 2019) (applying Americans with Disabilities Act). Graham's unadorned assertions of discrimination do little more than state legal conclusions, which are insufficient to claim plausibly that Herron took any actions because of protected

characteristics. *See Kaminski v. Elite Staffing, Inc*., 23 F.4th 774, 776 (7th Cir. 2022). This is true whether we look to the Fair Housing Act or to other antidiscrimination laws that Graham discusses on appeal.

To the extent that Graham wishes to bring a retaliation claim, 42 U.S.C. § 3617, she has pleaded herself out of court. *See Atkins v. City of Chicago*, 631 F.3d 823, 832 (7th Cir. 2011). Her pleadings show that her disputes with Herron occurred before she contacted the Department of Housing and Urban Development, so her assertion that the alleged harassment was because of this activity lacks plausibility. *See Riley v. City of Kokomo*, 909 F.3d 182, 192 (7th Cir. 2018) (summary judgment).

We note that litigants should be given the opportunity to amend a complaint at least once as a matter of course, unless amendment would be futile. *Runnion ex rel. Runnion v. Girl Scouts*, 786 F.3d 510, 519–20 (7th Cir. 2015). Here, the district court did not address the issue of amendment at all. The opportunity to amend is particularly important for pro se litigants, like Graham, who may be less familiar with pleading requirements. Nonetheless, "[r]eversal is inappropriate if the plaintiff cannot identify how [she] would cure defects in [her] complaint." *Pension Tr. Fund for Operating Eng'rs v. Kohl's Corp.*, 895 F.3d 933, 942 (7th Cir. 2018). By the time of this appeal, Graham was on notice of what was insufficient about her pleadings. Yet she has never proposed any amendments and even in her appellate briefs does not draw any plausible causal connection between her disputes with Herron and her race or her daughters' disabilities. *See id.* It is reasonable to infer after multiple submissions that she cannot do so, and amendment therefore would be futile.

AFFIRMED