

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

FRANKIE TAYLOR

PLAINTIFF

VS.

No. 4:08-CV-04152 GTE

KOHLER COMPANY

DEFENDANT

ORDER

Before the Court is a partial motion to dismiss filed by Defendant Kohler Company.¹ The motion seeks the dismissal of any claims for violation of Title VII or the ADA, assuming any such claims have been asserted in Plaintiff Frankie Taylor's *pro se* complaint. No response to the motion has been filed. For good cause shown, the motion will be granted.

Plaintiff Frankie Taylor brings this action against Defendant Kohler Company, alleging his employment was terminated on October 6, 2007, while on leave under the Family Medical Leave Act. More specifically, Mr. Taylor alleges that he was terminated while on Family Medical Leave for health problems due to back surgery. He notes that at the time of termination, Kohler advised him that he was being terminated "for stealing time from the company." Mr. Taylor denies that he committed such acts and states that "all time sheets submitted were approved by my supervisor."

Kohler correctly observes that no facts are stated in the Complaint to put it on notice of Plaintiff's intent to state a cause of action for violation of Title VII or the Americans with

¹ The motion should have been labeled a partial motion to dismiss because even if granted, it will not dispose of Plaintiff's entire complaint.

Disabilities Act (“ADA”). There is nothing before the Court to indicate that Plaintiff intended to assert a cause of action for a violation of Title VII or the ADA. Nonetheless, if Plaintiff so intended, he has failed to assert facts which, when taken as true, raise more than a speculative right to relief under either Title VII or the ADA. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 127 S.Ct. 1955, 1965 (2007). Accordingly, the Court will grant the requested relief.

CONCLUSION

For good cause shown,

IT IS HEREBY ORDERED THAT Defendant Kohler Company’s motion for partial dismissal (docket no. 7) be, and it is hereby GRANTED. Plaintiff’s Complaint fails to state a claim for relief under either Title VII or the Americans with Disabilities Act. Accordingly, to the extent the Complaint may be construed to allege such claims, they are DISMISSED. The case will proceed on the one and only legal claim alleged by Plaintiff, violation of the Family Medical Leave Act.

IT IS SO ORDERED this 21st day of January, 2009.

/s/ Garnett Thomas Eisele
UNITED STATES DISTRICT JUDGE