

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

SHARON JOHNSON

PLAINTIFF

v.

CASE NO. 5:10-cv-00037 BSM

CITY OF PINE BLUFF and CARL REDUS

DEFENDANT

ORDER

Plaintiff moves [Doc. No. 14] for a jury trial or in the alternative to dismiss her complaint without prejudice. The time for a response has passed, but the defendants have not responded. For the reasons set forth below, the motion for a jury trial is GRANTED. The motion to dismiss is DENIED as moot.

Although plaintiff did not submit a timely demand for a jury trial, Federal Rule of Civil Procedure 39(b) allows a district court discretion to “order a jury trial on any issue for which a jury might have been demanded.” In interpreting Rule 39(b) the Eighth Circuit has stated that “jury trials ought to be liberally granted when no prejudice results.” *Littlefield v. Fort Dodge Messenger*, 614 F.2d 581, 585 (8th Cir. 1990). Defendants have made no objection to the motion for a jury trial, and there is no indication that they will be prejudiced if the motion is granted. Trial is currently set for August 1, 2011, which gives the parties adequate notice that the case will be heard before a jury.

Plaintiff points out that depositions have revealed questions of fact that the parties did not know existed at the time of the complaint and the answer. These questions relate directly to plaintiff’s employment discrimination claims and are best tried before a jury.

For cause shown the motion for a jury trial is GRANTED. The alternative motion to dismiss without prejudice is DENIED as moot.

IT IS SO ORDERED this 1st day of June, 2011.


UNITED STATES DISTRICT JUDGE