

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior Judge Richard P. Matsch

Civil Action No. 08-cv-00717-RPM

ROBIN D. CHAPLIN, an individual,

Plaintiff,

v.

PARK HOSPITAL DISTRICT, INC., a Colorado non-profit corporation,
d/b/a ESTES PARK MEDICAL CENTER,

Defendant.

ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

The plaintiff Robin D. Chaplin brings this action against her former employer, Park Hospital District, Inc., alleging violations of the Americans with Disabilities Act ("ADA"), the Family and Medical Leave Act ("FMLA"), breach of contract, and promissory estoppel. Claims for fraud, fraudulent concealment, and constructive discharge were dismissed with prejudice by order dated October 2, 2008, upon stipulation filed by the parties. This court has jurisdiction under 28 U.S.C. §§ 1331 & 1367. The defendant has moved for summary judgment of dismissal. The plaintiff responded but also argued she needed to conduct discovery. Oral argument was held on September 29, 2009. Neither the papers filed by the plaintiff nor the hearing provided sufficient grounds to support the plaintiff's request for discovery.

The plaintiff has not shown that she is disabled within the meaning of the ADA. The plaintiff is a registered nurse. Assuming the plaintiff has physical impairments, and the major life activity at issue is working, she has not shown she is substantially limited in her ability to perform a class of jobs or a broad range of jobs in various classes. Her inability to perform the particular job of a “bedside nurse” is insufficient. She is able and continues to work as a registered nurse.

The plaintiff’s FMLA claim fails because she was no longer employed by the defendant during the period of leave requested. The plaintiff tendered her resignation, effective at a subsequent date, on April 3, 2007. Her email of April 22, 2007, to a colleague stated her last shift would be on May 14, 2007. Her FMLA leave was not made until April 30, 2007, requesting leave to start on May 15, 2007, after her last day of employment with the defendant.

The plaintiff’s remaining claims for breach of contract and promissory estoppel are based on the contention that a contract was formed when she resigned her position as a registered nurse in order to apply for a Unit Coordinator/Ward Clerk position with the defendant. A position the plaintiff states she was told she would “likely” receive, but the defendant allegedly required her to resign her current position first to apply. These facts are insufficient to form an enforceable contract or to establish the elements of a promissory estoppel claim. The plaintiff’s contention is also belied by her actions in applying for a position with another employer by April 11, 2007, eight days after her April 3, 2007 letter of resignation. It is therefore

ORDERED that the defendant's Motion for Summary Judgment [Doc. #16] is hereby is granted and this action is dismissed with prejudice.

DATED: September 30th, 2009

BY THE COURT:

s/Richard P. Matsch

Richard P. Matsch, Senior District Judge