

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

VICTOR T. WARD

:

v.

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CIVIL NO. CCB-17-2170

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COMMISSIONER OF SOCIAL SECURITY
ADMINISTRATION, ET AL.

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MEMORANDUM

Plaintiff Victor Ward, representing himself, has sued the Commissioner of Social Security Administration (“SSA”) and the American Federation of Government Employees/AFL/CIO (“AFGE”) seeking monetary damages related to a five-day suspension imposed on Ward by an SSA supervisor.¹ He relies on the Labor Management Relations Act of 1947 (“LMRA”), 29 U.S.C. §§ 141 *et seq.* SSA has filed a motion for judgment on the pleadings.

SSA correctly argues that the court lacks subject-matter jurisdiction over Ward’s complaint. The United States and its agencies are not included in the definition of “employer” under the LMRA. 29 U.S.C. §§ 142(3), 152(2); *Bourdon v. Canterbury*, 813 F.Supp.2d 104, 107-8 n.4 (D.D.C. 2011). Moreover, the government has not waived sovereign immunity over short periods of suspension allegedly in violation of the collective bargaining agreement.

The AFGE has not filed a motion to dismiss; indeed, it may not have been properly served. But it appears the court lacks subject matter jurisdiction over Ward’s complaint against the union for the same reason it lacks jurisdiction over the complaint against SSA: the LMRA does not include federal employees, and the AFGE does not fall within the definition of a labor organization. 29 U.S.C. §§ 152(3), 152(5); *Bourdon*, 813 F.Supp.2d at 107-8 n.4.

¹ Ward filed suit in Baltimore City Circuit Court, and the government removed the case to this court.

Accordingly, the motion to dismiss will be granted; the motion for judgment on the pleadings will be denied; and Ward will be given 14 days to show cause why the complaint should not also be dismissed as to the AFGE.

A separate Order follows.

November 29, 2017

Date

/s/

Catherine C. Blake

United States District Judge