

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

LIN GAO,)
)
Plaintiff,)
)
v.) No. 4:13CV1956 SPM
)
)
ST. LOUIS LANGUAGE)
IMMERSION SCHOOLS, INC.,)
)
Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court upon review of plaintiff's complaint [Doc. #1] in light of defendant's recently-filed motion to dismiss, or in the alternative, motion for a more definite statement [Doc. #18]. *See* 28 U.S.C. § 1915.

On October 1, 2013, plaintiff filed this action against the St. Louis Language Immersion Schools, Inc.,¹ alleging that she was discriminated against on the basis of her age when she was terminated from her employment as a physical education teacher at the Chinese School located on Pine Street in St. Louis, Missouri. Plaintiff states that she was told she was too old for the job. Although the Court had initially construed

¹Plaintiff has incorrectly named defendant as the Chinese Department/School of St. Louis Language Immersion School. Defendant has motioned the Court to amend the case caption with its correct corporate name, St. Louis Language Immersion Schools, Inc. [Doc. #19]. Defendant's motion will be granted.

plaintiff's allegations as asserting a claim pursuant to the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 621, *et seq.* ("ADEA"),² there is now some question as to whether plaintiff also intended to assert a gender discrimination claim, or other such claims, pursuant 42 U.S.C. § 2000e-5 ("Title VII"). Because of the lack of clarity as to precisely what claims plaintiff is attempting to assert in this action, the Court will order her to amend her complaint on an employment discrimination complaint form. Plaintiff should attach to the amended complaint copies of any and all right to sue letters she may have received from the United States Equal Employment Opportunity Commission ("EEOC") and/or the Missouri Commission on Human Rights ("MCHR").³

²The Court notes that the ADEA does not require that a right to sue letter be obtained before filing suit. *See e.g., Fed. Express Corp. v. Holowecki*, 552 U.S. 389, 403-04 (2008).

³When a plaintiff files a complaint with the MCHR, the complaint is automatically dual-filed with the EEOC. As such, if plaintiff has received an EEOC right to sue letter, she must submit a copy of it to this Court. Moreover, a plaintiff should always be aware of the necessity of filing an employment discrimination claim within the time period provided by statute and in the appropriate state or federal court. In the absence of an accompanying federal claim, a plaintiff may file an MHRA claim in the appropriate state court within the time period set forth in the MCHR notice of right to sue letter.

Accordingly, the Court will order plaintiff to amend her complaint to articulate under which statute(s) she is pursuing her claims in this Court, as well as the underlying facts giving rise to such claims. Plaintiff must also supplement the record by attaching to her amended complaint a copy of her EEOC and MCHR right to sue letters, if she has received them, within thirty (30) days of the date of this Order.

Accordingly,

IT IS HEREBY ORDERED that plaintiff shall amend her complaint, on a Court-provided employment discrimination complaint form, and attach thereto a copy of her EEOC right to sue letter and her MCHR right to sue letter, if she has received them, within thirty (30) days of the date of this Order.

IT IS FURTHER ORDERED that the Clerk shall provide plaintiff a copy of a blank employment discrimination complaint form.

IT IS FURTHER ORDERED that defendant's motion to amend/correct case caption [Doc. #19] is **GRANTED**.

IT IS FURTHER ORDERED that defendant's motion [Doc. #18] to dismiss shall be held in abeyance at this time.

IT IS FURTHER ORDERED that if plaintiff fails to comply with this Order, this action will be dismissed without prejudice and without further notice to her.

Dated this 30th day of January, 2014.

/s/ Shirley Padmore Mensah
SHIRLEY PADMORE MENSAH
UNITED STATES MAGISTRATE JUDGE