

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

JEFFREY S. RAPP,

Plaintiff,

vs.

HAMPTON BY HILTON,

Defendant.

CV 17-63-BU-BMM-JCL

ORDER

I. Introduction

Plaintiff Jeffrey Rapp, appearing pro se, filed the present action in the Montana Eighteenth Judicial District Court, Gallatin County on July 3, 2017. The gravamen of Rapp’s complaint lies in his assertions that Defendant Hampton by Hilton – Rapp’s employer from October 2016 to April 2017 – “established and maintained a hostile and unsafe work environment” that purportedly resulted in Rapp’s “inability to work.” (Doc. 5 at 1-2.)¹

On August 25, 2017, Hampton removed the case to this Court, invoking

¹Rapp’s complaint does not expressly state that his employment with Hampton terminated, but in its L.R. 16.2(b)(1) Preliminary Pretrial Statement, Hampton advises Rapp’s employment with Hampton ended in April 2017.

diversity jurisdiction under 28 U.S.C. § 1332(a).

II. Motion to Dismiss

Shortly after removal, Hampton filed a motion requesting dismissal of Rapp's complaint under Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted. (Doc. 6.) In the alternative, Hampton seeks to have Rapp file a more definite statement under Fed. R. Civ. P. 12(e).

Review of the record reflects that Rapp has not filed a response to Hampton's motion within the time prescribed by Local Rule 7.1(d)(1)(B). As to Hampton's request for a more definite statement, Rapp's failure to file a response is deemed an admission that this aspect of Hampton's motion is well taken.

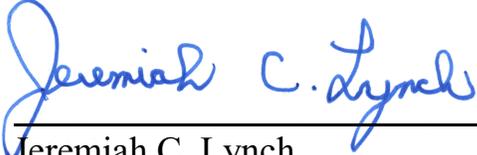
The Court agrees with Hampton that Rapp's complaint, as plead, is indeed so vague that Hampton cannot be expected to formulate an informed response. Consequently, this aspect of Hampton's motion is granted. Therefore, IT IS HEREBY ORDERED that Rapp shall file a more definite statement on or before November 15, 2017.

III. Failure to Prosecute

Review of the record reflects Rapp failed: (1) to file a Preliminary Pretrial Statement as directed by order entered August 30, 2017, (doc. 3); and (2) failed to appear at the October 31, 2017 Fed. R. Civ. P. 16 scheduling conference as

directed by the order entered August 30, 2017. Therefore, IT IS HEREBY ORDERED that on or before November 15, 2017, Rapp shall show cause in a writing filed with the Court why this action should not be dismissed under Fed. R. Civ. P. 41(b) for failure to prosecute and otherwise comply with the order of this Court entered August 30, 2017.

DATED this 31st day of October, 2017.



Jeremiah C. Lynch
United States Magistrate Judge