

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DARRELL REDDEN, Union Member) 8:11CV36

Local 1521 #7408327,)

)

Plaintiff,)

)

v.)

)

**MEMORANDUM
AND ORDER**

INTERNATIONAL BROTHERHOOD)

OF ELECTRICAL WORKERS LOCAL)

UNION NO. 1521,)

)

Defendant.)

)

This matter is before the court on its own motion. On April 15, 2011, the court conducted an initial review of Plaintiff's Complaint and found that Plaintiff failed to state a claim upon which relief may be granted as to all claims asserted. (Filing No. [8](#).) In particular, the court determined that:

Plaintiff does not allege that the IBEW Local 1521 acted arbitrarily or in bad faith, and does not allege that the union discriminated against him. At best, Plaintiff has alleged that the IBEW Local 1521 was negligent or inept in pursuing his grievance. In light of the deference due the IBEW Local 1521, the allegations currently before the court are insufficient to "nudge" Plaintiff's claims cross the line from conceivable to plausible.

([Id.](#) at CM/ECF p. 3.) In light of these pleading deficiencies, the court granted Plaintiff an opportunity to amend.

In response, Plaintiff filed an Amended Complaint on May 6, 2011. (Filing No. [8](#).) In his Amended Complaint, Plaintiff repeats the allegations of his original complaint and sets forth additional complaints about his termination. ([Id.](#)) However, Plaintiff again fails to allege that Defendant acted arbitrarily, in bad faith, or in a discriminatory manner in failing to pursue Plaintiff's grievance. ([Id.](#)) After careful review of the Amended Complaint, the court finds that, even after amendment, Plaintiff has failed to state a claim upon which relief

may be granted. *See Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1950 (2009) (“A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.”); *Martin v. Sargent*, 780 F.2d 1334, 1337 (8th Cir. 1985) (holding that, regardless of whether a plaintiff is represented or is appearing pro se, the plaintiff’s complaint must allege specific facts sufficient to state a claim). For these reasons, and the reasons set forth in the court’s April 15, 2011, Memorandum and Order, this matter is dismissed without prejudice.

IT IS THEREFORE ORDERED that:

1. This matter is dismissed without prejudice because the Amended Complaint fails to state a claim upon which relief may be granted.

2. A separate judgment will be entered in accordance with this Memorandum and Order and the court’s April 15, 2011, Memorandum and Order.

DATED this 20th day of June, 2011.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge

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