

UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE

Karen Mead,
Plaintiff

v.

Case No. 15-cv-310-SM
Opinion No. 2017 DNH 205

Fairpoint Communications, Inc.,
Defendant

O R D E R

Defendant seeks summary judgment on plaintiff's Equal Pay Act claim, arguing at length that various facts preclude a finding that the allegedly comparable position held by a male employee (Rush) was substantially equal in skill, effort, and responsibility. Thus, says defendant, plaintiff cannot meet even her prima facie burden. But the facts as pled, taken in a light favorable to the party opposing summary disposition, and the supporting evidence of record, could support a jury's determination that between 2011 and the end of 2013 plaintiff was paid less than Rush for work requiring substantially equal skill, effort, and responsibility under similar conditions.

If the 2013 reorganization is found to have been a demotion for both plaintiff and Rush (or for neither), the facts as pled and the evidence of record could further support a finding on unjustifiable pay disparity through December of 2014.

Of course, the record as it stands, also discloses that numerous material facts related to the nature of the compared positions, the relative skill and effort required, the relative responsibilities associated, and the relative conditions under which the jobs were performed, are genuinely disputed, thus precluding summary judgment. The positions at issue are high level and sophisticated administrative positions that do not lend themselves to easy attribute comparisons.

Conclusion

Because material facts are genuinely disputed, and essentially for the reasons given in plaintiff's memorandum in opposition, the motion for summary judgment on plaintiff's Equal Pay Act claims (document no. 43) is denied, albeit without prejudice to revisiting the matter at trial when the evidentiary record is better developed.

SO ORDERED.



Steven J. McAuliffe
United States District Judge

September 22, 2017

cc: Brooke L. L. Shilo, Esq.
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