

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

KAREEN DELAHAYE,

Plaintiff,

-against-

HOYT DAK TRANSPORTATION,

Defendant.

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT, NEW YORK
X

FEB 03 2009

P.M.
TIME A.M. *[Signature]*MEMORANDUM
DECISION AND ORDER

08 Civ. 2157 (BMC)(LB)

X

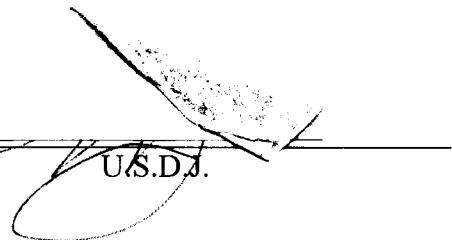
COGAN, District Judge.

By Order dated December 12, 2008, the Court explained to plaintiff *pro se* that her Title VII action appeared to be time-barred because she had not filed her administrative charge of discrimination within the time limits of 42 U.S.C. §2000e-5(e)(1). Although nothing in plaintiff's papers in opposition to defendant's motion for judgment on the pleadings suggested a basis for equitable tolling, the Court, in deference to plaintiff's *pro se* status, nevertheless deferred ruling on the motion to give plaintiff another opportunity to address that issue. The Court advised plaintiff that she had to "submit a supplemental affidavit explaining why she did not timely file her administrative claim. The Court will then determine whether equitable tolling is appropriate."

Plaintiff's supplemental affidavit does not offer any reason at all why she did not timely file her administrative claim. It merely repeats her claim, and then again notes that she has received a right to sue letter. The right to sue letter gives her the right to commence this action, but it does not give her the right to maintain it if she failed to timely file her administrative claim. As no basis for equitable tolling has been offered, plaintiff may not maintain this action.

Accordingly, defendant's motion for judgment on the pleadings is granted, and the case is dismissed.

SO ORDERED.

A handwritten signature in black ink, appearing to read "Hon. [illegible]" followed by "U.S.D.J.", is written over a horizontal line.

Dated: Brooklyn, New York
February 2, 2009