

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Sarah Huskins,

Case No. 16-cv-2053

Plaintiff

v.

ORDER

Dana Limited,

Defendant

Before me is Plaintiff Sarah Huskins' motion for a court order to dismiss this action without prejudice under Federal Rule of Civil Procedure 41(a)(2). (Doc. No. 24). Defendant Dana Limited opposes the motion. (Doc. No. 23, 25).

As a preliminary matter, I find it necessary to grant Plaintiff leave to reconsider her motion to dismiss the action prior to ruling on the merits of the motion. If I were to dismiss the case now, it would effectively be a dismissal *with prejudice* since a Title VII action must be filed within ninety days of receipt of a right-to sue letter from the EEOC. *See* 42 U.S.C. § 2000e-5(f)(1); *see also* *Truit v. Cnty. Of Wayne*, 148 F.3d 644, 647 (6th Cir. 1998). As I noted in *Spurlock v. University of Toledo*, 86 F. Supp. 3d 744 (N.D. Ohio 2015), the Ohio Savings statute does not apply to Title VII claims. 86 F. Supp. 3d at 746-47 (citing *Johnson v. Railway Express Agency, Inc.*, 489 F.2d 525, 530 (6th Cir. 1973)). Additionally, although I have not considered the merits of any possible motion for equitable tolling, Plaintiff is cautioned that the equitable doctrine is applied "only sparingly." *Dixon v. Gonzales*, 481 F.3d 324, 331 (6th Cir. 2007) (quoting *Irwin v. Dep't of Veterans Affairs*, 498 U.S. 89, 96 (1990)).

Accordingly, Plaintiff is granted 45 days from the issuance of this order to withdraw her motion to dismiss. If Plaintiff does not notify the court of her intention to withdraw her motion

through a filing on the public docket within the 45 days allotted, I will consider the motion to dismiss on the merits. Plaintiff may use this time to seek counsel to assist her in prosecuting the case or decide whether to proceed pro se.

So Ordered.

s/ Jeffrey J. Helmick
United States District Judge