

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JOSEPH REINWAND,

Plaintiff,

v.

NATIONAL ELECTRICAL BENEFIT FUND,

Defendants.

ORDER

17-cv-538-bbc

On July 5, 2018, I entered an opinion and order granting defendant National Electrical Benefit Fund's motion for summary judgment in this case brought by pro se plaintiff Joseph Reinwand under the Employee Retirement Income Security Act, 29 U.S.C. § 1132. Dkt. #39. Plaintiff filed a notice of appeal on July 24, 2018. Dkt. #41. He also filed a motion with the court of appeals requesting that the \$505 filing fee he had paid when he filed an unsuccessful interlocutory appeal earlier in this case be applied to his current appeal. The court of appeals construed plaintiff's motion as a request to proceed in forma pauperis on appeal and transferred the motion to this court. Dkt. #45.

Plaintiff's request that the \$505 fee he paid for his interlocutory appeal be applied to his new appeal will be denied. Under the Federal Rules of Appellate procedure, appellants must pay a fee for any appeal they file, whether the appeal is of a final order or interlocutory. Fed. R. App. P. 3(e) and 5(d). Plaintiff has cited no authority for his argument that a fee paid for a premature and unsuccessful appeal may be refunded or reapplied to a later-filed

appeal.

Plaintiff may be able to proceed without prepayment of the full filing fee if he is indigent. However, plaintiff has not submitted a certified trust fund account statement (or institutional equivalent) as required by the federal in forma pauperis statute, 28 U.S.C. § 1915(a)(2). Accordingly, I cannot consider whether he qualifies for indigent status at this time. If plaintiff submits a trust fund account statement by August 21, 2018, I can consider whether he qualifies for in forma pauperis status.

ORDER

IT IS ORDERED that plaintiff Joseph Reinwand's request to apply his previously-paid \$505 filing fee to his new appeal, dkt. #46, is DENIED. Plaintiff may have until August 21, 2018 to either (1) pay the \$505 appellate docketing fee; or (2) submit a certified trust fund account statement for the six-month period preceding the filing of the appeal in compliance with 28 U.S.C. § 1915(a)(2). Failure to comply as directed may result in the dismissal of this appeal.

Entered this 13th day of August, 2018.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge