

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

MICHAEL HOWARD,)
)
Plaintiff,)
)
v.) Case No. 04-2601-CM
)
MILLARD REFRIGERATED SERVICES,)
INC.,)
)
Defendant.)

ORDER

This matter comes before the court upon plaintiff’s Motion for Leave to File Amended Complaint (Doc. 15). Defendant has not filed any response to plaintiffs’ motion, and the time to do so has now expired.¹ Pursuant to D. Kan. Rule 7.4, the court ordinarily treats a motion, to which no timely response is filed, as uncontested and grants the motion without any further notice.² The court has reviewed plaintiffs’ motion and is now prepared to rule.

Fed. R. Civ. P. 15(a) provides that leave to amend “shall be freely given where justice so requires.” In this case the plaintiff seeks leave to amend to allege additional claims relating to defendant’s violation of

¹ See D. Kan. Rule 6.1(d)(1) (“Responses to nondispositive motions. . . shall be filed and served within 14 days.”).

² D. Kan. Rule 7.4 provides in relevant part:

The failure to file a brief or response within the time specified within Rule 6.1(d) shall constitute a waiver fo the right thereafter to file such a brief or response, except upon a showing of excusable neglect. . . . If a respondent fails to file a response within the time required by Rule 6.1(d), the motion will be considered and decided as an uncontested motion, and ordinarily will be granted without further notice.

the Family and Medical Leave Act of 1993 and wrongful discharge of plaintiff in violation of Kansas public policy.³

On June 16, 2005, the court entered a scheduling order in this case (Doc. 11), which provided a deadline for amendments to the pleadings of June 24, 2005. The instant motion for leave to amend was filed on June 24, 2005, in compliance with the scheduling order deadline. The requested amendment is therefore timely, and, because discovery in this case is at such an early stage, it does not appear that defendant would be unfairly prejudiced by the court's granting the plaintiff leave to amend. Accordingly, for good cause shown,

IT IS ORDERED that plaintiff's Motion for Leave to File Amended Complaint (Doc. 15) is hereby granted. Plaintiff is directed to file his First Amended Complaint within 10 days, by **July 21, 2005**.

IT IS SO ORDERED.

Dated this 11th day of July, 2005, at Topeka, Kansas.

s/K. Gary Sebelius
K. Gary Sebelius
U. S. Magistrate Judge

³ Plaintiff's Motion for Leave to File Amended Complaint (Doc. 15), at ¶ 3.