

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

CHRISTOPHER GOOD,

Plaintiff

v.

THE PEP BOYS- MANNY
MOE & JACK o/d/b/a
PEP-BOYS

Defendant

Case No.

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, Chris Good (hereinafter “Good”) a former employee of The Pep Boys- Manny Moe & Jack (hereinafter “Defendant”), institutes this action for damages and other relief for violations of his rights under federal and state law as a member of the Pennsylvania Army National Guard stemming from the unlawful termination of his employment on account of National Guard training that Good was required to attend. This lawsuit contends that Defendant by applying its corporate “no call-no-show” policy to Good while he was on military duty, intentionally, knowingly, or with reckless disregard violated Good’s rights under the Uniformed Services Employment and Reemployment Rights Act, (hereinafter “USERRA”) and under the common law of the Commonwealth of Pennsylvania.

II. Jurisdiction and Venue

1. This Court has jurisdiction over Plaintiff's claims arising pursuant to 38 U.S.C. §§ 4323(a), thus this action involves federal questions regarding the violation of Plaintiff's rights created and protected by Federal Statute.

2. Personal jurisdiction over Defendant is present pursuant to 18 U.S.C. §1965(a) and (b) and 28 U.S.C. §1891(b) and (d) in that Defendant resides within and is organized and/or existing pursuant to the laws of the Commonwealth of Pennsylvania.

3. Venue is proper in the Western District of Pennsylvania pursuant to 18 U.S.C. §1965(a) in that Defendant resides within or is organized and existing pursuant to the laws of the Commonwealth of Pennsylvania and nearly all of the events giving rise to this Complaint took place in the Western District of Pennsylvania.

III. Parties

4. Good is a member of a "uniformed service" (Pennsylvania Army National Guard) as defined under the Uniformed Services Employment and Reemployment Rights Act, as amended, 38 U.S.C. §4301 et seq. ("USERRA"), and a member of a "reserve component of the armed forces" under Pennsylvania Military Affairs Act, as amended, 51 Pa. Cons. Statute §7301 et seq. (PMAA). Good was such a member of a uniformed service at all times relevant to this complaint.

5. Defendant was an "employer," as that term is defined under USERRA, 38 U.S.C. §4304(4), and was likewise a covered entity under the PMAA, 51 Pa. Cons. Statute §7309.

IV. Facts

6. Defendant from October 1, 2013 employed Good until August 28, 2015 at Defendant's location 6581 Steubenville Pike, Crafton, PA 15205.

7. On August 6, 2014, Good received Orders to Active Duty.

8. A copy of the Orders was provided to the John Hatton and Good's Service Supervisor. A copy of the Orders are attached to this Complaint as **Plaintiff's Exhibit 1**, and hereby incorporated as if specifically averred herein.

9. Good's orders were common knowledge to Defendant and its employees.

10. Good was assured by management that his job would be available upon his return from military service.

11. Good reported to Active Duty on August 25, 2014.

12. Good returned from Active Duty the week of February 10, 2015.

13. Upon returning from Active Duty, Good was informed that he was fired on August 28, 2015 for not reporting to work.

14. Defendant intentionally or recklessly terminated Good because of his required Active Duty service.

15. As a direct result of Defendant's conduct as described, Good suffered lost wages, benefits, and other remuneration including, front pay, back pay, and loss of earning capacity.

16. As a direct result of Defendant's conduct, Good suffered embarrassment, humiliation, and damage to his reputation.

COUNT I

Violation of the Prohibition against Military Discrimination pursuant to USERRA (Termination)

17. The preceding paragraphs are hereby incorporated as if specifically averred herein.

18. Defendant is an employer within the meaning of USERRA.

19. Good's military service was a motivating factor in Defendant's decision to terminate Good's employment.

20. Defendant's application of its "no call-no show" policy to service members, who are absent from work due to duly ordered military service obligations, has a disparate impact on such service members employed by Defendant.

21. Defendant unlawfully terminated Good in violation of §4311(a) of USERRA.

22. In violating §4311(a), Defendant acted willfully or recklessly.

23. As a result of the violation of his rights under §4311(a), Good suffered loss of earning capacity, lost wages, lost benefits and other remuneration connected to his employment and/or employment opportunities with Defendant.

Count II

Violation of the Prohibition against Failing to Reemploy Pursuant to USERRA

24. The preceding paragraphs are hereby incorporated as if specifically averred herein.

25. Defendant failed to reemploy Good in his pre-deployment position and/or a position of like status, pay, etc. in violation of his rights under §4312(a) and §4313(a)(1)(A) of USERRA.

26. As a result of this violation, Good suffered loss of earning capacity, lost wages, lost benefits and loss of other remuneration connected to his employment and/or employment opportunities with Defendant.

Count III

Violation of §4302(b)

27. The preceding paragraphs are hereby incorporated as if specifically averred herein.

28. Defendant's application of its "no call-no show" policy to employees who are absent from work due to authorized military service obligations is in violation of §4302(b) of USERRA in that it improperly reduced, limited and/or eliminated Good's rights afforded to him under USERRA.

29. As a result of this violation, Good suffered loss of earning capacity, lost wages, lost benefits and loss of other remuneration connected to his employment and/or employment opportunities with Defendant.

Count IV

Wrongful Discharge

30. The preceding paragraphs are hereby incorporated as if specifically averred herein.

31. The public policy of the Commonwealth of Pennsylvania is established by the PMAA which prohibits employers from discriminating against employees or prospective employees on account of their military obligations and/or from terminating and/or discharging any employee on account of or as a result of any such obligations

32. By terminating Good's employment on account or as a result of his military service, Defendant violated the public policy of the Commonwealth of Pennsylvania.

33. Defendant's conduct was outrageous and carried out in an intentional and/or with reckless disregard of Good's rights as established by the public policy of the Commonwealth of

Pennsylvania to be free from discrimination and/or wrongful discharge on account of his military obligations.

34. As a result of the violation of his rights to be free from wrongful termination, Good suffered loss of earning capacity, lost wages, lost benefits, and loss of other remuneration connected to his employment and/or employment opportunities with Defendant.

35. As a result of this violation, Good suffered embarrassment, humiliation, emotional distress, and damage to his reputation.

WHEREFORE, Plaintiff Chris Good respectfully requests that this Honorable Court enter judgment in his favor and against Defendant and award damages for lost wages, benefits and other remuneration, and for embarrassment, humiliation, emotional distress, and damage to reputation as well as punitive damages. He also seeks such equitable relief as may be appropriate under the circumstances and as necessary to vindicate the public policy of the Commonwealth of Pennsylvania.

JURY TRIAL DEMANDED.

Respectfully submitted,
/s/Martell Harris

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