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NJ AutoZone Locations Can't Dodge Sexual Harassment Suit

By Darcy Reddan

Law360 (March 6, 2018, 7:59 PM EST) -- A New Jersey federal judge denied AutoZone's partial motion to dismiss a suit alleging an employee was subjected to sexual harassment and had her hours reduced after filing a complaint, ruling that the statute of limitations on her claims began when she received a right-to-sue letter and not the date of the violations.

U.S. District Judge Jose L. Linares denied AutoZone Inc.'s partial motion for dismissal on Monday, finding that the former employee was within the statute of limitations under the New Jersey Law Against Discrimination because a plaintiff has two years to sue upon receiving a right-to-sue letter from the U.S. Equal Employment Opportunity Commission. The court also denied arguments that the employee had not adequately pled harassment under the NJLAD and Title VII of the Civil Rights Act of 1964.

"Because some of the harassment occurred within the two-year statute of limitations, and the harassment that occurred outside the statute of limitations is connected to the claims that are timely filed, the continuing violations doctrine applies to plaintiff's NLAD claims," the opinion states.

Rochelle Tillett filed suit in October, alleging that she experienced a pattern of sexual harassment at three New Jersey locations beginning in September 2014, when a co-worker told customers she was a prostitute and she was suspended for filing a complaint about the co-worker.

In January 2015, she was transferred to a second location, where she experienced unwanted sexual advancements from a co-worker and alleges other employees encouraged her to reciprocate the advances.

Tillett ultimately filed another complaint and was transferred to a third location in October 2015. Her harasser was allegedly transferred to the same location a few weeks later and subsequently reduced her hours from 40 a week to 32.

She then filed several more complaints and wrote to AutoZone's vice president, saying she had placed in "intolerable environments."

Tillett quit in February 2016 before filing a complaint with the EEOC in October 2016. She received the right-to-sue letter last July.

AutoZone moved to dismiss the suit in January, arguing that the claims were outside of the statute of limitations and that she had failed to adequately plead harassment and could not plead constructive discharge.

AutoZone claimed that the alleged conduct at the first two locations was outside the 300-day EEOC limitations period, and thus the claims should be dismissed. The court disagreed, finding that the EEOC determined the claims were timely given the issuance of the right-to-sue letter.

With regard to Title VII, the court did note that further discovery is necessary to determine if she was issued the letter based on the conduct of all three locations, but said that the continuing violation doctrine covers the claims under the NJLAD because the claims involved various supervisors of the same employer disregarding repeated complaints.

The court concluded that any conduct that occurred before October 2015 would be connected to the claims that were timely filed with the EEOC under the NJLAD.

According to the court, constructive discharge is when an "employer knowingly permit[s] conditions of discrimination in employment so intolerable that a reasonable person subject to them would resign."

AutoZone had argued that the gap in between the last alleged act of harassment and her resignation made the claim moot. But the court disagreed, finding that the claims should remain because the district manager whom she had previously complained to continued to retaliate against her by allegedly denying an application for a promotion and giving her tasks outside the scope of her duties, including lifting heavy objects, up until her resignation.

AutoZone additionally argued that the Title VII and NJLAD discrimination claims fail because Tillett could not show quid pro quo sexual harassment because she has to show "a tangible employment action as a result of her refusal to submit to those sexual advances."

The court ruled that the negative reception she received at work, including comments to Tillett that her manager "is mad at you because he wants some, you should just give him some," as well as the reduction in her work schedule, amounted to sexual harassment under Title VII and the NJLAD.

Representatives for both parties declined to comment on Tuesday.

Tillett is represented by Zachary Ian Holzberg of Derek Smith Law Group PLLC.

AutoZone is represented by Christina Silva and Elizabeth Yung Sook Moon of Lum Drasco & Positan LLC.

The case is Tillett v. AutoZoners LLC. et al, case number 2:17-cv-07952, in the U.S. District Court for the District of New Jersey.

--Editing by Catherine Sum.