

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

MARY JORDAN, ET AL.,)
)
Plaintiffs)
)
v.) Civil 99-0207-B
)
TOMLINSON & ASSOCIATES, INC.,)
JAMES R. TOMLINSON, AND)
DEERPOINT, L.L.C.,)
)
Defendants)

ORDER AND MEMORANDUM

BRODY, J.

Plaintiffs, Mary Jordan and her husband, Bruce Jordan, (the "Jordans") bring this action alleging violations of the Family Medical Leave Act, 29 U.S.C. § 2611 et seq., the Americans with Disabilities Act, 42 U.S.C. § 12111 et seq., and the Federal Rehabilitation Act, 29 U.S.C. § 794 et seq., as well as common law tort claims. All of Plaintiffs' claims arise out of the termination of their employment as property managers at an apartment complex located in West Linn, Oregon.

Before the Court is Defendants' Motion to Dismiss for lack of personal jurisdiction under Rule 12(b)(2). For the reasons stated below, Defendants' Motion is GRANTED.

I. FACTS

Defendant Deerpoint, L.L.C. ("Deerpoint") purchased Linnwood Heights, an apartment complex in West Linn, Oregon, in January 1999. Deerpoint, a limited liability corporation incorporated under the laws of Oregon, has only transacted business in Oregon and Idaho. After being purchased by Deerpoint, Linnwood Heights was managed by Tomlinson & Associates, Inc. ("Tomlinson & Associates"). Tomlinson & Associates is incorporated under the laws of Idaho and licensed to do business in both Idaho and Oregon. Defendant James R. Tomlinson is President of Tomlinson & Associates and a co-managing member of Deerpoint. Mr. Tomlinson resides in Idaho and has never transacted any business in Maine individually or through either of the two Defendant corporations.

When Tomlinson & Associates began managing Linnwood Heights in January 1999, it retained the Jordans as Resident Property Managers of the complex.¹ In connection with their employment, the Jordans resided in a subsidized apartment at Linnwood Heights. On April 5, 1999, the date of the Jordans' termination, Mary Jordan ("Mary") alleges she was on a ten day medical leave from her job pursuant to a doctor's note. After being terminated from their job as Property Managers and losing their subsidized housing at Linnwood Heights, the Jordans left West Linn, Oregon, and relocated to Maine to live with family members. They are currently Maine residents.

II. STANDARD FOR DETERMINING PERSONAL JURISDICTION

When a claim arises under a federal statute, "the constitutional limits of the court's personal jurisdiction are drawn with reference to the due process clause of the fifth amendment." Lorelei Corp. v. County of Guadalupe, 940 F.2d 717, 719 (1st Cir. 1991). The Fifth Amendment allows for personal jurisdiction over any party that has "sufficient contacts with the United States as a whole." Id. (citations omitted). However, Federal Rule of Civil Procedure 4(k) generally limits effective service of process to those defendants "who could be subjected to the jurisdiction in the state in which the district court is located," unless the federal statute in question authorizes nationwide service of process. Fed. R. Civ. P. 4(k)(1)(A) & (D). Therefore, under the Federal Rules of Civil Procedure, the limits of personal jurisdiction for this case are defined by Maine's long-arm statute, 14 M.R.S.A. § 704-A. See Lorelei, 940 F.2d at 720.

Maine's long arm statute "provide[s] its citizens with an effective means of redress against nonresident persons who, through certain significant minimal contacts with [Maine], incur obligations to citizens entitled to the state's protection." 14 M.R.S.A. § 704-A(1). In relevant part, the statute gives Maine courts jurisdiction over nonresidents if the alleged acts of the nonresident "cause[] the consequences of a tortious act to occur within [Maine]." 14 M.R.S.A. § 704-A(2)(B).

¹ The parties appear to disagree about whether Defendants employed only Mary Jordan or both Bruce and Mary Jordan. For purposes of this motion, this contested issue of fact is not material. Viewing this fact in the light most favorable to the nonmoving party, the Court will discuss the Plaintiffs' claim as if both of the Jordans were employed at Linnwood Heights up until April 5, 1999.

III. DISCUSSION

Citing the above quoted section of Maine's long arm statute, Plaintiffs argue that this Court may exercise personal jurisdiction over Defendants because there is specific jurisdiction flowing from the tortious consequences of Defendants' action occurring in Maine. See 14 M.R.S.A. § 704-A(2)(B). According to Plaintiffs, these consequences include continued unemployment and medical care for the physical and emotional damage caused by their termination. Plaintiffs admit that other than the consequences of Defendant's alleged tortious act occurring in Maine, Defendants have no other contacts with the state of Maine.

In reconciling the language of section 704-A(2)(B) with the constitutional requirements of due process, the Maine Supreme Judicial Court has explained that when a defendant's contacts with Maine "result solely from the unilateral activity of another party," the constitutionally required minimal contacts are not fulfilled. See Murphy v. Keenan, 667 A.2d 591, 594 (Me. 1995) (internal quotations and citations omitted). Additionally, the First Circuit has reached the same conclusion finding that Maine's long arm statute does not provide grounds for personal jurisdiction when "all relevant events" have occurred in another state. See Lorelei, 940 F.2d at 720.

In this case, Plaintiffs alleged their employment was terminated in violation of several federal statutes. Their employment and all of the acts relevant to its termination occurred in Oregon. Defendants have not caused the effects of the termination to occur in Maine. Any effects of Plaintiffs' termination occurring in Maine are solely the result of the Jordans moving to Maine to live with family. Given these facts, Defendants do not fit within the language of section 704-A(2)(B). See 14 M.R.S.A. § 704-A(2)(B). Additionally, it appears that the due process "minimal contacts" requirements as laid out by the First Circuit in Lorelei and the Maine Supreme Judicial Court in Murphy are not satisfied on these facts. See Lorelei, 940 F.2d at 720-21; Murphy, 667 A.2d at 594. This Court cannot exercise personal jurisdiction over Defendants from Oregon and Idaho simply because, following Defendants' allegedly unlawful termination of the Jordans in Oregon, the Jordans became residents of Maine and remain unemployed in Maine.

IV. CONCLUSION

Because the Court finds that it lacks personal jurisdiction over Defendants, it does not reach Defendants' alternative motion to transfer this action to the District of Oregon. Rather, Defendants Motion to Dismiss is GRANTED and the case is DISMISSED WITHOUT PREJUDICE so that Plaintiffs may file in a court that has personal jurisdiction over Defendants.
SO ORDERED.

MORTON A. BRODY
United States District Judge

Dated this 7th day of January, 2000.