

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 99-3664

Edward O. Weed,

Appellant,

v.

William J. Henderson,
Postmaster General,

Appellee.

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Appeal from the United States
District Court for the
Southern District of Iowa.

[UNPUBLISHED]

Submitted: April 13, 2000
Filed: April 24, 2000

Before BOWMAN, MAGILL, and HANSEN, Circuit Judges.

PER CURIAM.

Edward O. Weed appeals from the rulings of the District Court¹ granting the motions for summary judgment filed on behalf of his employer, the United States Postal Service, on Weed's claims of sex discrimination and of violations of the Family Medical Leave Act ("FMLA"). For reversal, Weed argues that he presented sufficient evidence to create genuine issues of material fact with respect to both of his claims.

¹The Honorable Robert W. Pratt, United States District Judge for the Southern District of Iowa.

Having considered the case, we conclude that the District Court did not err by granting summary judgment. We agree with the District Court that Weed's claims fail as a matter of law. The postal service says it separated Weed from employment because of his poor attendance record. Though Weed argues that he was treated more harshly than female employees with attendance records similar to his, the evidence shows conclusively that the females to whom he refers had far superior attendance records. Weed thus cannot establish that he is similarly situated to the females in question. Weed's claim of FMLA discrimination necessarily fails inasmuch as he has not offered any medical evidence of a serious health condition in connection with any of the instances for which he claimed FMLA leave.

The decision of the District Court is AFFIRMED. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.