

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 01-3642

James E. Bensinger,

Appellant,

v.

United States Postal Service,

Appellee.

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Appeal from the United States
District Court for the
District of Nebraska.

[UNPUBLISHED]

Submitted: May 2, 2002
Filed: May 7, 2002

Before LOKEN, BEAM, and RILEY, Circuit Judges.

PER CURIAM.

James Bensinger appeals from the district court's¹ adverse grant of summary judgment in his suit claiming age and veteran discrimination. Bensinger alleged that the United States Postal Service terminated him three weeks after hiring him because it realized that his prior government experience entitled him to the benefits of a ten-year employee. The Postal Service countered that it terminated him after receiving information that he had falsified his employment application.

¹The Honorable Joseph F. Bataillon, United States District Judge for the District of Nebraska, adopting the report and recommendations of the Honorable Kathleen A. Jaudzemis, United States Magistrate Judge for the District of Nebraska.

We review de novo the district court's grant of summary judgment, construing the record and all reasonable inferences from it in the light most favorable to the nonmoving party. See Dorsey v. Pinnacle Automation Co., 278 F.3d 830, 834-35 (8th Cir. 2002). After careful review of the record before us, we reject Bensinger's argument that the district court erred in dismissing his age discrimination claim. An employer who fires an employee simply to avoid paying benefits does not thereby violate federal laws against age discrimination, even if the employee is over 40 years old. See Hazen Paper Co. v. Biggins, 507 U.S. 604, 611-12 (1993); Snow v. Ridgeview Med. Ctr., 128 F.3d 1201, 1208 (8th Cir. 1997). Besinger waived his remaining arguments, including his argument on the veteran discrimination claims, by failing properly to raise them in the district court. See United States v. One Parcel of Prop. Located at RR 2, 959 F.2d 101, 103 (8th Cir. 1992).

Accordingly, we affirm. See 8th Cir. R. 47B.

A true copy.

Attest:

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