

United States Court of Appeals
For the Eighth Circuit

No. 22-2736

Kimberly Maria Myles

Plaintiff - Appellant

v.

Wells Fargo Bank, N.A.

Defendant - Appellee

Appeal from United States District Court
for the Southern District of Iowa - Central

Submitted: March 7, 2023

Filed: March 14, 2023

[Unpublished]

Before LOKEN, KELLY, and KOBES, Circuit Judges.

PER CURIAM.

Kimberly Myles appeals an order of the district court¹ declining to remand this removed employment discrimination action to state court. She also appeals the court's later adverse grant of summary judgment. After careful review of the record and the parties' arguments on appeal, we affirm.

We reject Myles's argument that this case was untimely removed, as the notice of removal (NOR) was filed within 30 days after the defendant could have first ascertained that the case was removable. See 28 U.S.C. § 1446(b)(3) (if case stated by initial pleading is not removable, NOR may be filed within 30 days after defendant's receipt of copy of order from which it may first be ascertained that case is removable). Further, we conclude that summary judgment was proper for the reasons stated by the district court. See Banks v. John Deere & Co., 829 F.3d 661, 665 (8th Cir. 2016) (grant of summary judgment is reviewed de novo). Accordingly, we affirm. See 8th Cir. R. 47B. We construe Myles's motion as a request to correct her reply brief, and we grant it.

¹The Honorable Stephanie M. Rose, Chief Judge, United States District Court for the Southern District of Iowa, in part adopting the report and recommendations of the Honorable Helen C. Adams, Chief Magistrate Judge, United States District Court for the Southern District of Iowa.