

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 96-3090

Frank S. Howard,

Appellant,

v.

United States Postal Service,

Appellee.

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Appeal from the United States
District Court for the
Eastern District of Missouri.

[UNPUBLISHED]

Submitted: June 6, 1997

Filed: August 18, 1997

Before HANSEN, MORRIS SHEPPARD ARNOLD, and MURPHY, Circuit Judges.

PER CURIAM.

Frank S. Howard appeals from the district court's¹ order dismissing his employment discrimination action for failure to exhaust administrative remedies.

A federal employee must exhaust administrative remedies as a precondition to filing an employment discrimination lawsuit in federal district court. See Miller v. Runyon, 32 F.3d 386, 389 (8th Cir. 1994) (citing Brown v. General Serv. Admin., 425

¹The Honorable Jean C. Hamilton, Chief Judge, United States District Court for the Eastern District of Missouri.

U.S. 820, 832 (1976)). Exhaustion of remedies requires, among other things, a complaining employee to contact an EEO counselor within 45 days of an allegedly discriminatory action. See 29 C.F.R. § 1614.105(a)(1). We agree with the district court that Howard failed to exhaust his administrative remedies, because he did not contact an EEO counselor until July 24, 1995, nearly ten months after his September 23, 1994 discharge. Thus, dismissal was proper. Accordingly, we affirm.

We also deny Howard's motion to amend his complaint.

A true copy.

Attest:

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