

Extra Credit

Finance 510

Hazen Paper Co. v. Biggins

Facts

Walter F. Biggins, a 62 year old employee of Hazen Paper Co., was fired from his job only a few weeks before his pension would be vested. He sued his employers in District Court, and the jury found that there was a willful violation of the Age Discrimination in Employment Act (ADEA), resulting in liquidated damages. Hazen Paper Co. claimed that Biggins was fired for doing business with the company's competitors. The District Court granted Hazen Paper Co. a motion for judgement notwithstanding the verdict on the finding of willfulness. The Court of Appeals found in favor of Biggins on in regards to the ADEA and Employee Retirement Security Act (ERISA), and it reversed the willfulness finding of the District Court. The matter was then appealed to the U.S. Supreme Court.

Issues

Is pension vesting interference a violation of ADEA, and does the *Thurston* standard for liquidated damages apply to an informal discriminatory employer decision?

Holding

Pension vesting interference alone is not a violation of ADEA, but the *Thurston* standard involving willfulness applies to both formal and informal decisions. The case was remanded to the Court of Appeals to reconsider the employer's liability, given the clarification of the standard to

be used.

Rationale

In order for an employer to be found liable under ADEA, age must be the sole motivator in the employer's decision. In other words, there must clearly be disparate treatment. Any employer decision that may be prompted by some factor in addition to or in place of age, cannot be held liable. The disparate treatment theory does specify that it is unlawful for an employer to discriminate in regards to compensation and benefits based on an individual's age. However, pension vesting is not based solely on age; it is based on years of service. Although age and years of service may coincide, they are two distinct factors. Thus, terminating an employee when his pension is close to vesting is not actionable under ADEA, but it may be actionable under ERISA.

The *Thurston* standard is used in determining whether or not liquidated damages apply. Usage of this standard involves a "willful" violation of ADEA by an employer. In other words, the employer must have shown "reckless disregard for the matter" as it applied to ADEA. This "knowledge or reckless disregard" standard had always been used." Many courts have avoided using the *Thurston* standard on an informal basis for fear that it may have adverse effects on the two-tiered system of liability set by Congress. Rather than concentrating on the two-tiered system, however, the courts should decide whether or not there was a willful violation. The two tiers liability will not be affected in this case as long as the "knowledge or reckless disregard" standard is used. An employer that makes poor choices concerning ADEA applications but does so in good faith and nonrecklessly should not be subject to liquidated damages under *Thurston*. Therefore, the *Thurston* standard is reaffirmed.

Concurring

Three justices share concurring opinions in this case. All of them agree with the decision on pension interference in regards to ADEA. Also, they agree with the standard set for determining willfulness. They do not agree with the usage of the "disparate impact" theory of Title VII of the Civil Rights Act of 1964 being used in the Court's opinion. According to the justices, this case involves employment practices concerning ADEA. The ADEA should not be interchanged with Title VII. Without this part of the opinion, the justices fully agree.