UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

HORACE DRAUGHON,	:	
	:	
Plaintiff,	:	
	:	
V.	:	CIVIL NO. 3:04cv00578 (RNC)
	:	
MONTOWESE HEALTH AND REHABILITATION CENTER, INC.	:	
	:	
Defendant.	:	

RULING AND ORDER

Plaintiff, a former maintenance worker at Montowese Health and Rehabilitation Center, Inc., brings this action alleging race and age discrimination in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq., the Age Discrimination in Employment Act, 29 U.S.C. § 621, et seq., and 42 U.S.C. § 1981. Defendant has moved to dismiss count III of plaintiff's complaint, which alleges a state law claim of intentional infliction of emotional distress (doc # 13). The motion is granted.

I. BACKGROUND

Plaintiff, an African-American male, was a maintenance worker at defendant's health care facility for approximately seventeen years. Compl. ¶¶ 5, 11. In March 2003, a female co-worker accused him of harassment. Id. ¶ 6. Plaintiff was discharged. Id. He alleges that defendant failed to conduct a reasonable investigation into the veracity of the

allegation. Id.

At the time of his discharge, plaintiff was sixty-nine years old. Id. ¶ 13, at 4. Before his termination, his supervisor had substantially reduced his working hours because "he [plaintiff] was on social security." Id. ¶ 10. Defendant replaced plaintiff with a younger, Hispanic employee. Id. ¶ 9. This lawsuit followed.

II. DISCUSSION

A. STANDARD OF REVIEW

When considering a Rule 12(b)(6) motion to dismiss, the court accepts as true all factual allegations in the complaint and draws all reasonable inferences in favor of the plaintiff. Chambers v. Time Warner, Inc., 282 F.3d 147, 152 (2d Cir. 2002).

B. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

To state a claim for intentional infliction of emotional distress, a plaintiff must establish four elements:

> (1) that the actor intended to inflict emotional distress or that he knew or should have known that emotional distress was the likely result of his conduct; (2) that the conduct was extreme and outrageous; (3) that the defendant's conduct was the cause of the plaintiff's distress; and (4) that the emotional distress sustained by the plaintiff was severe.

Appleton v. Board of Educ., 254 Conn. 205, 210 (2000) (citation omitted). Conduct is extreme and outrageous if it

exceeds "all bounds usually tolerated by decent society." Petyan v. Ellis, 200 Conn. 243, 254 (1986) (quoting Prosser & Keeton on The Law of Torts § 12 (W. Page Keeton et al. eds., 5th ed. 1984)). To find liability for intentional infliction of emotional distress, Connecticut requires "conduct [that] has been so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community." Appleton, 254 Conn. at 211 (quoting Restatement (Second) of Torts § 46 cmt. d (1965)).

Moreover, in Connecticut, an adverse employment action is extreme and outrageous only when the employer conducts the action in an "egregious and oppressive manner." Miner v. Town of Chesire, 126 F. Supp. 2d 184, 195 (D. Conn. 2000)(stating that a routine employment action "even if improperly motivated, does not constitute extreme and outrageous behavior when the employer does not conduct that action in an egregious and oppressive manner"); see also Campbell v. Town of Plymouth, 74 Conn. App. 67, 78 (2002) (stating that the mere act of firing an employee, even if wrongfully motivated, does not exceed all bounds of decency). It is initially for the court to determine whether defendant's conduct was extreme and outrageous. Appleton, 254 Conn. at 210. The issue becomes

one for the jury only where reasonable minds can disagree. Id.

Plaintiff's allegations, viewed most favorably to him, are insufficient to state a claim for relief for intentional infliction of emotional distress. Reducing an employee's work schedule because he is on Social Security does not qualify as extreme and outrageous conduct. Nor does failing to adequately investigate the validity of a harassment claim before discharging an employee. See Ziobro v. Conn. Inst. For the Blind, 818 F. Supp. 497, 502 (D. Conn. 1993). Plaintiff does not allege that his termination was conducted in an egregious and oppressive manner. Miner, 126 F. Supp. 2d at 195; Campbell, 74 Conn. App. at 78-79.

III. CONCLUSION

Accordingly, the motion to dismiss is hereby granted.

So ordered.

Dated at Hartford, Connecticut this ____ day of _____ 2004.

Robert N. Chatigny
United States District Judge