

Stop The Tolling: Minnesota Supreme Court Rules That an Employee's Internal Complaint Tolls the Statute of Limitations under the Minnesota Human Rights Act (MHRA)

by Melissa Raphan

Under the MHRA, employees have one year to bring a discrimination claim (by filing a Charge of Discrimination with the Minnesota Department of Human Rights or by going directly to court). In a little-used provision, the statute also provides that the limitations period will be suspended “during the time a potential charging party and respondent are voluntarily engaged in a dispute resolution process involving a claim of unlawful discrimination under this chapter, including arbitration, conciliation, mediation or grievance procedures.” Minn. Stat. § 363A.28, subd. 3. On April 12, 2017, the Minnesota Supreme Court held that an employee’s internal human resources complaint (and the employer’s ensuing investigation) constituted a “voluntary dispute resolution process,” thereby tolling the statute such that the employee’s lawsuit filed more than one year after the alleged discriminatory act was timely. *Peterson v. City of Minneapolis*, 2017 Minn. LEXIS 195 (Apr. 12, 2017). This decision could have significant implications for employers.

In *Peterson v. City of Minneapolis*, Peterson filed a complaint with the human resources department under the City’s “Respect in the Workplace Policy” in November 2011. Following an investigation that lasted more than one year (concluding in January 2013), the City determined it could not substantiate his claim. Peterson then filed an age discrimination lawsuit under the MHRA.

The City moved for summary judgment, arguing that Peterson’s claim was time-barred because he filed it outside the one-year statute of limitations. While the district court agreed and dismissed the claim, the court of appeals reversed. The Minnesota Supreme Court affirmed.

The Court’s Analysis

The law school adage that “bad facts make bad law” applies here. The fact that the City took over one year to complete its investigation such that the employee’s claim would have been time-barred absent a finding that the statute was tolled seems to have played

Related People

- Melissa Raphan

Related Capabilities

- Labor & Employment

a significant role. The pivotal questions in determining whether the internal complaint procedure tolled the limitations period included: (1) whether the parties “voluntarily engaged” in a process and (2) whether the process constituted a “dispute resolution process.”

First, to “voluntarily engage” in the process, the Court held that a party “must act on its own free will to involve itself in the qualifying process.” Because Peterson was not required to file an internal complaint but elected to do so, his decision to do so was considered voluntary and sufficient to satisfy the statute.

Second, the Court applied a very broad interpretation of the term “dispute resolution process.” The Court found that arbitration, conciliation, mediation, and grievance procedures contained elements of formality, were processes capable of providing relief to the complainant, and were often completed under written guidelines or rules. The Court also noted that these processes have a clearly identifiable start and end date, and often include the use of a neutral third-party. The Court used these criteria to analyze the internal complaint process and focused on the fact that it was a formal process with the capacity to resolve Peterson’s claim, was outlined in a written document, and involved individuals “somewhat analogous to third parties,” in the form of investigators assigned to investigate the internal allegations.

The question left open is whether a court will always toll the statute of limitations for the length of time that it takes to give an employee a response to an internal complaint, thereby extending the statute of limitations by that same period of time. The alternative would be that a court will only toll the statute of limitations when the length of time that it took to resolve the internal complaint extends beyond the limitations period, thereby precluding an employee who waits for such resolution from timely filing an MHRA charge or lawsuit.

What does this mean for employers?

The one-year statute of limitations under the MHRA is an acknowledgement by the legislature that discrimination claims should be brought quickly to ensure that evidence is preserved and witnesses are called to testify while their memories are fresh. Employers often prefer a shorter statute of limitations given the transitory nature of the workplace and will want to ensure that the statute of limitations is not tolled. In light of this ruling, employers may want to consider the steps below.

- The Investigation Plays An Important Role. Given that employers have an affirmative defense available to them under the MHRA (and comparable federal law) for harassment claims, it is still advisable to set forth a clear investigation process for employees to bring forth complaints internally before they resort to the Minnesota Department of Human Rights or the courts for resolution. Employers should consult with counsel when developing general policies and when facing specific allegations and planning specific internal investigations to balance the need to internally resolve such allegations against the risk of tolling of the statute of limitations.
- Consider Adding A Disclaimer To Anti-Discrimination/Anti-Harassment Policies.

Employers should consider whether to add language to any complaint process or policy to avoid bringing the process or policy within the scope of the MHRA and the *Peterson* decision. For example, consider adding language such as "This is not a dispute resolution process. This is simply a process which the Company uses to invite employees to raise issues so that the Company can determine whether policies have been violated and, if they have, take appropriate follow-up action." Employers may also consider adding the following: "While we appreciate your raising this issue with us to give us a chance to address it, we want to make clear that you should determine whether there is additional action that you should take to preserve your legal rights."

- Be Aware of Complaint Process Time Lines. Employee complaints should be addressed as quickly as practicable so that the employer's investigation does not stretch beyond the statute of limitations.
- Employers With Unionized Employees. Employers with unionized employees should consider whether the grievance procedure set forth under the applicable collective bargaining agreements (CBA) should apply to employees' concerns that implicate discrimination allegations under the MHRA, and if not, add clarifying language to the CBA during the next bargaining session.