

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

TRACY SMITH,

Plaintiff,

-against-

PROLINK HEALTHCARE, LLC,

Defendants.

Index No.:

Date Purchased:

VERIFIED COMPLAINT

Plaintiff, **TRACY SMITH**, by her attorney, **BELL LAW GROUP, PLLC**, complaining of the Defendant, **PROLINK HEALTHCARE, LLC**, respectfully alleges, upon information and belief:

FACTUAL ALLEGATIONS

1) At all times hereinafter mentioned, Plaintiff, TRACY SMITH, was and still is a resident of the County of Suffolk, State of New York.

2) Upon information and belief and at all times hereinafter mentioned, the Defendant PROLINK HEALTHCARE, LLC, is a foreign limited liability company registered in accordance with the statutes and ordinances of the State of New York.

3) Plaintiff is a duly licensed registered nurse.

4) Plaintiff is a duly licensed medical marijuana patient.

5) On or about July 1, 2022, Plaintiff was hired by Defendant for a role as travelling nurse.

6) Plaintiff was hired in New York.

7) Plaintiff's designated permanent tax residence was New York.

8) Plaintiff's only received pay was to a New York-based bank account.

9) Plaintiff was well-qualified for said role.

10) As a condition of employment, Plaintiff was subject to a drug test. Plaintiff was informed such drug test was only to test for “illicit” drugs.

11) On or about July 5, 2022, Plaintiff submitted to said drug test at LabCorp located in Shirley, County of Suffolk, State of New York.

12) Plaintiff was initially assigned to MetroWest Hospital in Framingham, Massachusetts.

13) On July 10, 2022, Plaintiff booked a hotel room and moved her belonging to said location.

14) Plaintiff commenced work at the Hospital on July 11, 2022.

15) On or about July 15, 2022, while working, Plaintiff was informed she had “failed” her drug test.

16) Plaintiff was instructed to depart from the premises immediately and summarily terminated.

17) Plaintiff’s drug test showed only a positive result for cannabis.

18) There was no allegation of impairment on the job; the sole reason provided for the summary termination was the “failed” screening drug test.

19) Plaintiff is a certified medical marijuana patient.

20) Plaintiff has been unable to secure employment with a similar rate of pay as the position from which she was unlawfully terminated.

VIOLATION OF NEW YORK STATE LABOR LAW § 201-D

21) New York Labor Law § 201-D sets forth, in no uncertain terms, that “Unless otherwise provided by law, **it shall be unlawful** for any employer or employment agency... **to discharge from employment or otherwise discriminate against an individual** in compensation, promotion or terms, conditions or privileges of employment **because of:**

(2)(b) **an individual’s legal use of consumable products, including cannabis in accordance with state law**, prior to the beginning or after the conclusion of the employee’s work hours, and off of the employer’s premises and without use of the employer’s equipment or other property N.Y. Lab. Law § 201-d (Consol., Lexis Advance through 2022 released Chapters 1-381).

22) Defendant summarily terminated **solely Plaintiff based on a “failed” drug screening** – a test which took place prior to starting her position, let alone her shift.

23) As a certified medical marijuana patient, Plaintiff’s use of cannabis was in accordance with state law at the time the test was taken.

24) Defendant’s sole reason for Plaintiff’s termination – that Plaintiff “failed” the drug screening test – is on its face a clear violation of New York Labor Law § 201-d.

25) Per New York Labor Law § 201-d (7)(b), Plaintiff is entitled to bring this private action for damages.

26) As a result of the Defendant’s decision to unlawfully terminate Plaintiff, Plaintiff has suffered damages that include lost earnings from the date of discrimination plus interest, front pay for lost earnings, lost benefits, emotional distress, and attorneys’ fees and costs.

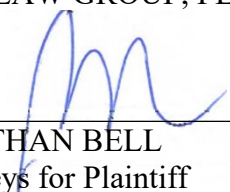
27) By reason of the foregoing, Plaintiff, TRACEY SMITH, has been damaged in a sum which exceeds the jurisdictional limits of all lower courts.

WHEREFORE, Plaintiff, **TRACEY SMITH,** demands judgment against the Defendant, herein on all causes of action, in a sum exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction, together with the costs and disbursements of this action.

Dated: Syosset, New York
July 28, 2022

Yours, etc.

BELL LAW GROUP, PLLC

BY: 

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