

United States Court of Appeals
For the Eighth Circuit

No. 21-3823

Shawn Mahler

Plaintiff - Appellant

v.

Schreiter Ready-Mix & Materials, Inc.

Defendant - Appellee

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

Submitted: June 28, 2022

Filed: July 11, 2022

[Unpublished]

Before LOKEN, COLLOTON, and KELLY, Circuit Judges.

PER CURIAM.

Missouri resident Shawn Mahler appeals the district court's¹ adverse grant of summary judgment in his employment discrimination action against his employer,

¹The Honorable Henry E. Autrey, United States District Judge for the Eastern District of Missouri.

Schreiter Ready-Mix & Materials, Inc. (Schreiter). We affirm the grant of summary judgment. See Liles v. C.S. McCrossan, Inc., 851 F.3d 810, 817 (8th Cir. 2017). Upon careful review, we agree with the district court that Mahler failed to timely exhaust administrative remedies as to his hostile work environment claims, as he did not file his charge of discrimination within 300 days of his last day of work. See 42 U.S.C. § 2000e-5(e)(1); AMTRAK v. Morgan, 536 U.S. 101, 112, 122 (2002); Moses v. Dassault Falcon Jet - Wilmington Corp, 894 F.3d 911, 920 (8th Cir. 2018); Hutson v. Wells Dairy, Inc., 578 F.3d 823, 826 (8th Cir. 2009). While Mahler argues on appeal that Schreiter failed to preserve the exhaustion issue by not sufficiently pleading it, we conclude that Mahler waived this argument by not raising it below, see Wever v. Lincoln County, 388 F.3d 601, 608 (8th Cir. 2004), and that Mahler had sufficient notice of the issue, see First Union Nat’l Bank v. Pictet Overseas Trust Corp., 477 F.3d 616, 622 (8th Cir. 2007).

Accordingly, we affirm.
