

United States Court of Appeals
For the Eighth Circuit

No. 24-2259

Maripat L. Gatter

Plaintiff - Appellant

v.

CEP America-Missouri, LLLP; CEP America, LLC

Defendants - Appellees

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

Submitted: March 20, 2025

Filed: March 25, 2025

[Unpublished]

Before SMITH, KELLY, and ERICKSON, Circuit Judges.

PER CURIAM.

Maripat Gatter appeals the district court's¹ dismissal of her Age Discrimination in Employment Act (ADEA) action as untimely. After careful review of the record and the parties' arguments on appeal, we conclude that the complaint was untimely. See Humphrey v. Eureka Gardens Pub. Facility Bd., 891 F.3d 1079, 1081 (8th Cir. 2018) (reviewing de novo grant of Fed. R. Civ. P. 12(b)(6) motion to dismiss claim as time-barred); see also McDonald v. St. Louis Univ., 109 F.4th 1068, 1071 (8th Cir. 2024) (concluding plaintiff received notice of right to sue when counsel received agency email with link to right-to-sue letter, even if counsel was not then able to read letter); Hallgren v. U.S. Dep't of Energy, 331 F.3d 588, 589 (8th Cir. 2003) (failure to file suit within 90 days of receiving notice of final agency action renders plaintiff's ADEA action untimely). We consider the equitable tolling argument waived because Gatter did not raise it before the district court. Rivera v. Bank of Am., N.A., 993 F.3d 1046, 1051 (8th Cir. 2021). Accordingly, we affirm. See 8th Cir. R. 47B.

¹The Honorable Shirley P. Mensah, United States Magistrate Judge for the Eastern District of Missouri, to whom the case was referred for final disposition by consent of the parties pursuant to 28 U.S.C. § 636(c).