



On appeal, plaintiff argues that the civil division erred in applying res judicata because he was not a party to the prior suit. He also argues that it was premature to dismiss his complaint for lack of standing because there was insufficient evidence regarding the terms of the contract between Ms. Clodgo and GMT. Plaintiff concedes that the civil division’s reasoning regarding the lack of marital status as a protected class under the VFEPa “finds firmer footing,” but maintains that the court’s other errors nevertheless require reversal.

“We review the trial court’s disposition of a motion to dismiss de novo, and may affirm on any appropriate ground.” Bock v. Gold, 2008 VT 81, ¶ 4, 184 Vt. 575 (mem.). Where a complaint is dismissed for failure to state a claim, we dismiss only “when it is beyond doubt that there exist no facts or circumstances, consistent with the complaint that would entitle the plaintiff to relief.” Id.

We do not reach plaintiff’s arguments regarding res judicata or standing because we conclude that plaintiff has failed to state a claim under the VFEPa. The VFEPa prohibits an employer from discriminating “against any individual because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim status, or age or against a qualified individual with a disability.” 21 V.S.A. § 495(a)(1). In interpreting the meaning of this statute, our primary objective is to implement the Legislature’s intent. T.C. v. L.D., 2020 VT 19, ¶ 4, 211 Vt. 582. To determine intent, we look first to the plain language and when the “intent is clear from the statutory language, we accept the plain meaning, our inquiry is at its end, and [we] enforce the statute according to its terms.” Id.

Here, the language of the VFEPa is unambiguous and does not provide that marital status is a protected class. Plaintiff offers no argument to the contrary. To make a prima facie case of employment discrimination under the VFEPa, plaintiff must demonstrate among other things that he “was a member of a protected group.” Robertson v. Mylan Lab’ys, Inc., 2004 VT 15, ¶ 25, 176 Vt. 356. Because plaintiff was not a member of a protected group, he has failed to make a prima facie case under the VFEPa, and the complaint was properly dismissed.

Affirmed.

BY THE COURT:

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Paul L. Reiber, Chief Justice

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Harold E. Eaton, Jr., Associate Justice

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William D. Cohen, Associate Justice