

IN THE COURT OF APPEALS OF IOWA

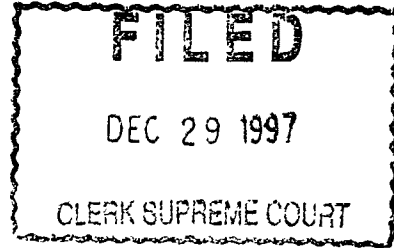
No. 7-541 / 96-1307

000161

DEBBIE HEIAR,
Appellant,

vs.

PHOTOGRAPHIC PRODUCTS, INC.,
Appellee.



Appeal from the Iowa District Court for Linn County, David Remley, Judge.

Debbie Heiar filed an action against her ex-employer, Photographic Products Inc. (Photo Pro), alleging a sexually hostile work environment existed at Photo Pro and that she was disparately treated based on her sex in violation of Iowa Code section 216.6(1) (1995). **AFFIRMED.**

John A. Stitely and Robert F. Wilson, Cedar Rapids, for appellant.

Allen L. Harms of Wenzel & Harms, P.C., Cedar Rapids, for appellee.

Considered by Sackett, P.J., and Streit and Vogel, JJ.

PER CURIAM

Debbie Heiar worked at Photographic Products from July 1992, until her voluntary resignation in February 1994. After being refused unemployment benefits, she filed a civil rights complaint alleging sexual harassment and an abusive and hostile work environment. In August 1994, Heiar filed suit in district court alleging a sexually hostile work environment and disparate treatment in violation of Iowa Code chapter 216. After a trial to the court, the district court found Heiar failed to prove her claims of sexual harassment, hostile work environment, or that any harassment affected a term, condition, or privilege of employment.

Heiar appeals. She asserts the district court erred in concluding she was not subjected to a hostile work environment, nor disparate treatment based on sex. She also argues the district court erred in its understanding of "sexual harassment." We affirm by memorandum opinion pursuant to Iowa Supreme Court rule 9.

In order to establish a valid claim of maintenance of a sexually hostile work environment through sexual harassment, Heiar must prove:

- (1) she belongs to a protected class;
- (2) she was subject to unwelcome sexual harassment;
- (3) the harassment was based upon sex;
- (4) the harassment affected a term, condition or privilege of employment, and;

(5) the employer knew or should have known of the harassment and failed to take prompt and appropriate remedial action.

Lynch v. City of Des Moines, 454 N.W.2d 827, 833 (Iowa 1990). To demonstrate disparate treatment Heiar must prove the employer treated some people less favorably than others because of their race, color, religion, sex, or national origin. *Hy-Vee Food Stores, Inc. v. Iowa Civil Rights Com'n*, 453 N.W.2d 512, 516 (Iowa 1990). Proof of discriminatory motive is critical. *Id.* The district court views the totality of the circumstances in determining the existence of a hostile work environment. *Edmunds v. Mercy Hosp., Cedar Rapids*, 503 N.W.2d 877, 879 (Iowa App. 1993).

Heiar's own testimony demonstrates her complaints about the work environment were unrelated to any discrimination. The employer's testimony reveals nondiscriminatory reasons for the business decisions about which Heiar complains. We conclude the district court's decision is supported by substantial evidence and that the court did not err in concluding Heiar failed to meet her burden of proof on all claims. We therefore affirm the decision of the district court.

AFFIRMED.