

IN THE COURT OF APPEALS OF IOWA

FILED

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CLERK SUPREME COURT

DENNIS L. STREITENBERGER,)

Plaintiff-Appellant,)

vs.)

EATON CORPORATION,)

Defendant-Appellee.)

Filed November 26, 1985

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5-479
85-307

Appeal from the Iowa District Court for Fremont County - Glenn M. McGee,
Judge.

Plaintiff appeals from trial court's sustention of the defendant's motion
for summary judgment in an action for wrongful termination of employment.
AFFIRMED.

Verd R. Bailey of Davidson & Bailey, P.C., Clarinda, for plaintiff-appellant.

Alan H. Bjork of Hanson, Bjork & Russell, Jefferson, for defendant-appellee.

Considered by Oxberger, C.J., and Donielson and Sackett, JJ.

Plaintiff appeals from trial court's sustention of the defendant's motion for summary judgment in an action for wrongful termination of employment. Plaintiff asserts that the district court erred in sustaining defendant's motion for summary judgment and holding that plaintiff's employment could be terminated at any time.

On the night of August 31, 1982, the plaintiff called his employer, Eaton Corporation, and informed a security guard that he was feeling ill and would not be coming to work. The plaintiff allegedly became ill on his way to work and called from his motorcycle repair shop. In the meantime, plaintiff's wife went to plaintiff's place of employment and asked to speak with plaintiff. She was surprised to find out that plaintiff called in sick.

The next morning, plaintiff called the defendant's personnel manager and explained his absence. When plaintiff reported for work his superiors questioned the plaintiff's absence. He was discharged because of his poor attendance record.

The plaintiff filed this action for wrongful termination alleging that this discharge violated the public policy of this state. The defendant subsequently filed a motion for summary judgment. After a hearing, the district court sustained the defendant's motion and dismissed plaintiff's petition.

Summary judgment is appropriate whenever no genuine issue as to any material facts exists and the moving party is entitled to a judgment as a matter of law. Iowa R. Civ. P. 237(c). The evidence is viewed in the light most favorable to the opposing party to determine whether the moving party has met this burden of proof. Sandbulte v. Farm Bureau Mutual Insurance Co., 343 N.W.2d 457, 464 (Iowa 1984) (citing Walker Shoe Store, Inc. v. Howard's Hobby Shop, 327 N.W.2d 725, 728 (Iowa 1982)). Plaintiff argues that issues exist as to employ-

ment-at-will exceptions and certain, unspecified, facts. We find no merit in this appeal.

Iowa has not recognized a public policy exception to the wrongful discharge cause of action. See Abrisz v. Pulley Freight Lines, Inc., 270 N.W.2d 454 (Iowa 1978); Note, Employment at Will: An Analysis and Critique of the Judicial Role, 68 Iowa L. Rev. 787, 788 (1983). While Iowa has not articulated what, if anything, would constitute a successful wrongful discharge cause of action of an employment at-will contract, the Abrisz court held that an employee who made untrue statements reflecting on her employer's integrity failed to establish that her termination violated public policy.

This situation is well within the Abrisz holding. The plaintiff had a poor attendance record and his reported illness prior to his discharge appears suspect. Following the directive that "courts should not declare conduct violative of public policy unless it is clearly so," 220 N.W.2d at 458, we find no evidence to indicate that the discharge could have been for a reason violative of public policy.

AFFIRMED.