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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

GLEN MENSCHING,)

Plaintiff-Appellant,) Filed February 24, 1981

vs.)

PUROLATOR COURIER CORPORATION,) 0-455
2-64825

Defendant-Appellee.)

Appeal from Pottawattamie District Court - E. F. Hanson, Judge.

Plaintiff-employee, in this action based on an oral employment contract, appeals from trial court's order dismissing his petition for failure to state a claim upon which relief could be granted, contending that trial court erred in failing to rule specifically on each ground of his motion and in ruling that his amended petition failed to state a claim upon which relief could be granted. REVERSED AND REMANDED.

Raymond E. Pogge of Pogge, Root and Steege, Council Bluffs, Iowa, for plaintiff-appellant.

John D. Sens of Stuart, Tinley, Peters, Thorn, Smits & Sens, Council Bluffs, Iowa, for defendant-appellee.

Heard by Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

Plaintiff-employee, Glen Mensching, in this action based on an oral employment contract, appeals from trial court's order dismissing his petition for failure to state a claim upon which relief could be granted. Plaintiff contends that trial court erred in failing to rule specifically on each ground of defendant's motion and in ruling that his amended petition failed to state a claim upon which relief could be granted. We reverse and remand to trial court.

Plaintiff brought this action against defendant, Purolator Courier Corporation, his former employer, alleging wrongful discharge from employment pursuant to an oral contract. Defendant moved to dismiss the petition on grounds that plaintiff did not allege that he had furnished consideration in addition to his services and that the employment contract, if any was found, therefore was terminable at will, allowing defendant to discharge plaintiff for "virtually any reason." Defendant thus contended that plaintiff failed to state a claim upon which relief could be granted. Trial court sustained defendant's motion and this appeal followed.

I. Scope of Review. Since this is an action at law, our review is on assigned error only. Iowa R. App. P. 4.

II. Motion to Dismiss. Plaintiff contends trial court erred in dismissing his petition as amended on grounds that he failed to state a claim on which relief may be granted. We agree.

A motion to dismiss a petition admits all well-pleaded facts. Schultz v. Brewer, 61 N.W.2d 446, 449, 245 Iowa 240, 245 (1953). In this action based on an oral employment contract, plaintiff's amended petition alleged consideration for his employment contract. Trial court, for purposes of ruling on defendant's motion, thus had to accept as true the allegation of plaintiff's amended petition that he had furnished sufficient consideration to enforce his oral contract. The question of whether this consideration was legally sufficient to enable plaintiff to enforce his employment contract could not be determined in a ruling on a motion to dismiss.

We thus find trial court erred in sustaining defendant's motion to dismiss. Consequently, we reverse trial court's ruling and remand this case to trial court for reinstatement of plaintiff's petition.

REVERSED AND REMANDED.