IN THE COURT OF APPEALS OF IOWA

No. 8-618 / 97-1771

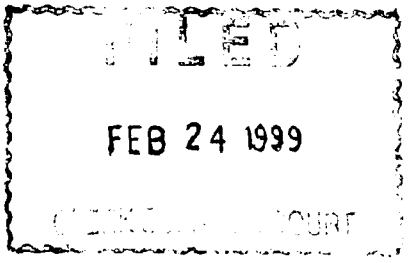
AMY J. SOLOMON,

Plaintiff-Appellant,

vs.

TYSON FOODS, INC.,

Defendant-Appellee.



Appeal from the Iowa District Court for Plymouth County, Michael S. Walsh, Judge.

Plaintiff appeals from the district court's ruling granting defendant employer summary judgment on a retaliatory discharge claim. **AFFIRMED.**

Robert D. Deck, Sioux City, for appellant.

Margaret M. Prahl of Heidman, Redmond, Fredregill, Patterson, Plaza & Dykstra, L.L.P., Sioux City, for appellant.

Considered by Sackett, C.J., and Streit and Mahan, JJ.

SACKETT, C.J.

Plaintiff-appellant Amy Solomon sued her former employer, defendant-appellee Tyson Foods, Inc., contending among other things she was discharged in retaliation for seeking her rights under workers' compensation legislation. The district court sustained defendant's motion for summary judgment seeking dismissal of this part of plaintiff's claim. We affirm.

Plaintiff started working on the production line for defendant in July of 1990. In January of 1992, plaintiff started having shoulder pain. She contended the pain was the result of a work-related injury. Plaintiff reported the injury and was paid workers' compensation benefits. Plaintiff also received an impairment rating and was restricted from lifting more than ten pounds and performing repetitive movements.

Plaintiff returned to full-time work in October of 1992 but was not able to do her prior job. She did other work but continued to suffer pain from the alleged work injury. In December of 1992, defendant told plaintiff she had to work within the restrictions she was given or take another leave of absence. Plaintiff made the claim she was forced to make an application for a leave and was threatened if she did not her employment would be terminated. Later, defendant decided plaintiff should request its approval before missing work because of a work-related disability. Plaintiff refused to sign the leave of absence form. She was told her refusal to sign the form would be considered a voluntary quit.

Plaintiff sued defendant alleging she was wrongfully discharged. She contends defendant breached oral and written contracts for employment when she was discharged. She also contends the discharge was in violation of public policy and discriminatory.

Defendant filed a motion for summary judgment seeking dismissal of all of plaintiff's claims. The district court partially granted defendant's motion for summary judgment. The district court dismissed plaintiff's claim defendant breached a contract and dismissed plaintiff's claim of violation of public policy. The district court overruled defendant's motion to dismiss plaintiff's discrimination claim.

Plaintiff challenges only that part of the district court's ruling dismissing her claim she was dismissed in retaliation for her workers' compensation claim.

In dismissing this claim, the district court found no evidence plaintiff had been prevented from obtaining workers' compensation benefits. The district court determined defendant's policy on leaves of absence did not interfere with plaintiff's rights to workers' compensation and did not support a finding of wrongful discharge. The district court determined defendant's decision to terminate plaintiff's employment was not contrary to public policy in Iowa.

Our scope of review is for errors at law. Iowa R. App. P. 4. Summary judgment is appropriate only if there exists no genuine issue of material fact. *Farm Bureau Mut. Ins. Co. v. Milne*, 424 N.W.2d 422, 423 (Iowa 1988). The moving party has the burden to show the nonexistence of a material fact. *Id.* The evidence must

be viewed in the light most favorable to the nonmoving party. *Thorp Credit, Inc. v. Gott*, 387 N.W.2d 342, 343 (Iowa 1986). This procedure is functionally akin to a directed verdict, and every legitimate inference that reasonably can be deduced from the evidence should be afforded the nonmoving party. *Id.* A fact issue is generated if reasonable minds can differ on how the issue should be resolved. *Id.* If the conflict in the record consists only of legal consequences flowing from undisputed facts, entry of summary judgment is proper. *Milne*, 424 N.W.2d at 423.

The sole function of a motion for summary judgment is to decide if there is a genuine issue of material fact. *See Barnhill v. Davis*, 300 N.W.2d 104, 105 (Iowa 1981); *Anita Valley, Inc. v. Bingley*, 279 N.W.2d 37, 40 (Iowa 1979). If there is, the case must stand for trial. The summary judgment court cannot pass on the merits of that question. *Moser v. Thorp Sales Corp.*, 312 N.W.2d 881, 890 (Iowa 1981).

Even on undisputed facts, summary judgment is not proper if reasonable minds may draw different inferences from them. *Enochs v. City of Des Moines*, 314 N.W.2d 378, 380 (Iowa 1982); *Tasco, Inc. v. Winkel*, 281 N.W.2d 280, 282 (Iowa 1979); *Brody v. Ruby*, 267 N.W.2d 902, 904 (Iowa 1978). In summary judgment matters, the trial court's findings are not findings of fact, but are decisions on questions of law. *City of Eldridge v. Caterpillar Tractor Co.*, 270 N.W.2d 637, 641 (Iowa 1978); *Tip Top Distrib. Co. v. Insurance Plan Sav. & Loan Ass'n*, 197 N.W.2d 565, 568 (Iowa 1972).

Employees in Iowa are presumed to be employees at will. *Anderson v. Douglas & Lomason Co.*, 540 N.W.2d 277, 281 (Iowa 1995). If there is not a valid employment contract, an employer may generally discharge an at-will employee any time with or without reason. *See Huegerich v. IBP, Inc.*, 547 N.W.2d 216, 219 (Iowa 1996). There are narrow exceptions to the at-will doctrine. *Borschel v. City of Perry*, 512 N.W.2d 565, 567 (Iowa 1994); *Fogel v. Trustees of Iowa College*, 446 N.W.2d 451, 455 (Iowa 1989). One of these exceptions is discharging an employee in situations that violate a recognized and defined public policy of the State. *Springer v. Weeks & Leo Co.*, 429 N.W.2d 558, 560 (Iowa 1988) (Harris, J., McGiverin, C.J., and Schultz, J., dissent). One of the recognized and defined public policies is violated if an employer discharges an employee in retaliation for his or her exercising rights created by the workers' compensation statutes. *Id.*; *Smith v. Smithway Motor Xpress, Inc.*, 464 N.W.2d 682, 685 (Iowa 1990). It is this exception plaintiff argues she comes under, and she contends the district court erred in dismissing her claim in that regard.

To recover for retaliatory discharge, plaintiff has the burden of proving the exception. *Smith*, 464 N.W.2d at 686. Proof plaintiff was fired after she made a claim under the workers' compensation statutes alone is not sufficient to generate a fact question on the issue and avoid summary judgment. *Phipps v. IASD Health Servs. Corp.*, 558 N.W.2d 198, 203 (Iowa 1997); *Hulme v. Barrett*, 480 N.W.2d 40, 43 (Iowa 1992).

There is no other evidence to support plaintiff's contention the discharge was retaliatory. She was not prevented from taking the leave, nor was she fired for that reason. The reason for the firing was her failure to comply with defendant's recordkeeping requirements. An employer is permitted to take reasonable steps to secure an adequate and reliable work force, and to say a detrimental treatment of an injured worker transforms workers' compensation into job security is contrary to legislative intent. *See Yockey v. State*, 540 N.W.2d 418, 421 (Iowa 1995).

The district court is affirmed.

AFFIRMED.