

STATE OF MICHIGAN  
COURT OF APPEALS

---

KENNETH TOWNLEY,

Plaintiff-Appellant,

v

MICHIGAN DEPARTMENT OF CORRECTIONS,

Defendant-Appellee.

---

UNPUBLISHED

April 23, 1999

No. 205863

Ingham Circuit Court

LC No. 97-016564 CM

Before: Fitzgerald, P.J., and Doctoroff and White, JJ.

PER CURIAM.

Plaintiff, who alleged that defendant caused him to contract Legionnaires Disease by negligently maintaining a water tower at his place of employment, appeals as of right the order granting defendant's motion for summary disposition pursuant to MCR 2.116(C)(7) and (8). We affirm.

Plaintiff argues that the trial court acted prematurely by granting defendant's motion for summary disposition before an answer had been filed and before discovery had begun. We review a grant of summary disposition under MCR 2.116(C)(8) de novo. *Jenks v Brown*, 219 Mich App 415, 417; 557 NW2d 114 (1996). We take only the pleadings into consideration, and we presume that the complaint's well-pleaded factual allegations and related, reasonable inferences are true. *Id.* If no factual development could possibly lead to recovery, summary disposition may properly be granted. *Id.*

Plaintiff alleged in his complaint that defendant breached its duty to maintain its buildings in reasonable repair "by failing to maintain the air treatment system in a condition reasonably safe for the prisoners, guards, and employees." Thus, plaintiff admittedly accused defendant of negligence. Negligence suits by employees against their employers for job-related injuries, however, are barred by the exclusive remedy provision of the worker's compensation act, which is the exclusive remedy for such injuries in the absence of an allegation of an intentional tort. MCL 418.131(1); MSA 17.237(131)(1). Plaintiff did not allege that defendant committed an intentional tort. Accordingly, plaintiff failed to state a claim upon which relief could be granted, and the trial court properly granted defendant's motion for summary disposition under MCR 2.116(C)(8). Contrary to plaintiff's assertions, neither an answer to the complaint nor additional discovery would have altered this result.

Given our resolution of this issue, we need not address plaintiff's remaining issues.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Martin M. Doctoroff

/s/ Helene N. White