STATE OF MICHIGAN

COURT OF APPEALS

LAURA VICTOR,

Plaintiff-Appellant,

v

DEPARTMENT OF CORRECTIONS,

Defendant-Appellee.

UNPUBLISHED
October 30, 2001

No. 223781
Ingham Circuit Court
LC No. 98-089433-NZ

Before: Whitbeck, P.J., and Neff and Hoekstra, JJ.

PER CURIAM.

Plaintiff appeals as of right from an order granting summary disposition in favor of defendant under MCR 2.116(C)(8). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

This case involves a claim of employment discrimination under the Persons with Disabilities Civil Rights Act (PWDCRA), MCL 37.1101 *et seq.*, formerly known as the Handicappers' Civil Rights Act (HCRA). According to her amended complaint, plaintiff, a classified state civil service employee hired as a corrections officer E9, injured her knee twice while on the job. Plaintiff alleged that her medical condition left her unable to perform work as a prison guard, but there were other jobs she could perform as a corrections officer E9 despite her restrictions, including classification director, hearings investigator, and mailroom clerk. Defendant did not place her in any of these positions when she applied and her employment was eventually terminated.

In granting summary disposition for defendant, the trial court ruled that defendant had no duty under the PWDCRA to place plaintiff in another job and cited *Rourk v Oakwood Hospital Corp*, 458 Mich 25; 580 NW2d 397 (1998). On appeal, plaintiff contends that the trial court erred in following *Rourk* and should have denied defendant's motion. We disagree. This Court's review of a decision regarding a motion for summary disposition is de novo. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998).

In *Rancour v The Detroit Edison Co*, 150 Mich App 276, 284; 388 NW2d 336 (1986), this Court held that where an employee is initially hired to perform a particular job and sustains injuries in the course of employment that physically preclude continuing in the same job, the obligation to accommodate does not require the employer to place that employee in a new and different job. *Rancour* was based on the HCRA before its 1990 amendment, but its holding has

been extended to later versions of the statute. *Rourk, supra* at 30-34; *Kerns v Dura Mechanical Components, Inc (On Remand),* 242 Mich App 1, 16; 618 NW2d 56 (2000); *Tranker v Figgie Int'l, Inc (On Remand),* 231 Mich App 115, 124; 585 NW2d 337 (1998); *Koester v Novi,* 213 Mich App 653, 662-663; 540 NW2d 765 (1995), rev'd in part on other grounds 458 Mich 1 (1998); *Hall v Hackley Hospital,* 210 Mich App 48, 57-58; 532 NW2d 893 (1995). Plaintiff attempts to distinguish these cases on the basis that she was not seeking another prison guard job with restructured duties, noting that her civil service classification qualified her for a variety of jobs other than prison guard and she could perform some of those jobs despite her restrictions. However, seeking other job openings is the functional equivalent of requesting placement in a different job. The fact that plaintiff could perform the duties of the other jobs does not entitle her to placement in one of them. *Rourk, supra* at 34. Summary disposition was proper.

Plaintiff also claims that the trial court erred in imposing sanctions. She argues that her claim was not frivolous and she should have been allowed to seek a clarification of *Rourk* because that decision did not address whether a disabled employee would be precluded from applying for other jobs, as opposed to a change in job duties. However, in *Rourk, supra* at 28, the plaintiff specifically argued, unsuccessfully, that her employer should transfer her to a different job. The award of costs and attorney fees under these circumstances was neither clearly erroneous nor an abuse of discretion. *In re Attorney Fees & Costs,* 233 Mich App 694, 701, 704; 593 NW2d 589 (1999).

Affirmed.

/s/ William C. Whitbeck
/s/ Janet T. Neff
/s/ Joel P. Hoekstra