

STATE OF MICHIGAN
COURT OF APPEALS

MATILDA HARTMAN, a/k/a/ MATILDE
HARDIMAN,

UNPUBLISHED
February 3, 2009

Plaintiff-Appellant,

v

BANK ONE, INC., a/k/a JP MORGAN CHASE
BANK,

No. 281722
Kent Circuit Court
LC No. 06-011616-CL

Defendant-Appellee.

Before: Cavanagh, P.J., and Jansen and Meter, JJ.

PER CURIAM.

In this action for unlawful retaliation under the Michigan Civil Rights Act, MCL 37.2701 *et seq.*, plaintiff appeals as of right from the trial court's order granting defendant's motion for summary disposition pursuant to MCR 2.116(C)(10). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Plaintiff alleges that defendant, her employer, demoted her in retaliation for filing a complaint with the Michigan Department of Civil Rights. The trial court granted defendant's motion for summary disposition, finding "no evidence of retaliation and no causal connection" between plaintiff's civil rights complaint and her demotion.

Summary disposition may be granted under MCR 2.116(C)(10) when "there is no genuine issue of material fact, and the moving party is entitled to judgment . . . as a matter of law." This Court reviews a trial court's decision on a motion for summary disposition *de novo*. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999).

A *prima facie* case of retaliation requires the plaintiff to show the following elements:

(1) that [the plaintiff] engaged in a protected activity; (2) that this was known by the defendant; (3) that the defendant took an employment action adverse to the plaintiff; and (4) that there was a causal connection between the protected activity and the adverse employment action. [*Garg v Macomb Co Community Mental Health Services*, 472 Mich 263, 273; 696 NW2d 646 (2005), amended 473 Mich 1205 (2005) (internal citation and quotation marks omitted).]

In July 2003, plaintiff filed a complaint with the Michigan Department of Civil Rights, alleging that she had been denied a raise on January 30, 2003, and placed on a 90-day performance improvement plan on April 10, 2003, because of her national origin. The department dismissed the complaint for insufficient evidence in October 2005. In November and December 2005, plaintiff was issued written warnings and demoted to a teller position. She alleged that she was demoted for filing the civil rights complaint.

Plaintiff contends that there is a genuine issue of material fact regarding whether her demotion was causally related to her civil rights complaint, because the demotion occurred within a short time after defendant was notified that her civil rights complaint had been dismissed. She claims that her sudden demotion for infractions that had previously resulted in oral or written notices raises the “spectre [sic] of retaliation.”

Plaintiff’s argument is factually unsupported and legally inadequate. The disciplinary warnings were issued by Kirstyn Stevens, but the evidence showed that Stevens was not aware of the details of the civil rights complaint and could not recall when she learned that the complaint had been dismissed. Moreover, the mere existence of a temporal connection between the dismissal of the civil rights complaint and the disciplinary actions is inadequate to sustain plaintiff’s action. “Something more than a temporal connection between protected conduct and an adverse employment action is required to show causation where discrimination-based retaliation is claimed.” *West v Gen Motors Corp*, 469 Mich 177, 186; 665 NW2d 468 (2003).¹ For example, a person could demonstrate the requisite causal connection by “present[ing] evidence that his superior expressed clear displeasure with the protected activity engaged in by the plaintiff.” *Id.*, pp 186-187. In this case, plaintiff did not present any evidence beyond a temporal connection to create a genuine issue of material fact with respect to a retaliatory motive for her demotion. Accordingly, the trial court did not err in granting defendant’s motion.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Kathleen Jansen
/s/ Patrick M. Meter

¹ Although *West* involved a whistleblower claim, the Court noted that such a claim is “analogous to an antiretaliation claim based on other prohibited kinds of employment discrimination.” *Id.*, p 186 n 11.