

STATE OF MICHIGAN
COURT OF APPEALS

KIMBERLEY ANN HART,

Plaintiff-Appellant,

v

GOODRICH AREA SCHOOLS and MICHAEL
TRIPP,

Defendants-Appellees.

UNPUBLISHED

April 24, 2012

No. 301936

Genesee Circuit Court

LC No. 09-092763-CD

Before: M. J. KELLY, P.J., and FITZGERALD and DONOFRIO, JJ.

PER CURIAM.

In this suit alleging gender discrimination and unlawful retaliation, plaintiff Kimberley Ann Hart appeals by right the trial court's order granting summary disposition in favor of defendants Goodrich Area Schools (Goodrich Schools) and Michael Tripp. On appeal, we must determine whether the trial court erred when it determined that Hart failed to establish a question of fact as to whether she suffered an adverse employment action and failed to establish the elements of her claim for retaliation. We conclude that Hart did not present evidence that would permit a reasonable jury to conclude that her suspension with pay constituted an adverse employment action. Moreover, because the decision to terminate her contract occurred only after she accepted employment with a different school district, Hart cannot rely on that action to establish her adverse employment action. Finally, even if Hart had established a question of fact as to whether she suffered an adverse employment action, she nevertheless failed to present evidence to establish a question of fact as to whether the reason proffered by Goodrich Schools and Tripp for her termination was a mere pretext and that the action was actually motivated, at least in part, by a discriminatory animus. We also conclude that Hart failed to present evidence that established a question of fact as to whether any alleged adverse employment action was causally related to her complaints about gender discrimination. For these reasons, we conclude that the trial court did not err when it granted summary disposition in favor of defendants.

I. BASIC FACTS

Hart worked for Goodrich Schools as a teacher and principal. During her tenure as a principal, Hart reported to the school district's long-time superintendent, Raymond Green. In 2004, Green notified the schools district's Board of Education that he intended to retire and Hart applied to replace him. Tripp was a member of the Board at the time of Hart's application and the Board's president was Michael Thorp. The Board unanimously voted to hire Hart to replace Green as Goodrich Schools' superintendent.

Hart began serving as the superintendent during the 2004 to 2005 school year. Thorp said that, while he served as the Board's president, he thought Hart's performance was "exemplary." However, after about the first year of Hart's tenure as superintendent, Tripp replaced Thorp as the Board's president. And Thorp admitted that Hart had a "testy" relationship with the Board. Thorp explained that there were "a lot of issues that were going on that were very important and very difficult to deal with" He also stated that it was difficult for her to replace a "long time very well-liked superintendent." Although people had had problems with Green over the course of his tenure, Thorp said, once he was gone he "became kind of a saint."

Hart testified that her relationship with Tripp was not always confrontational; she said that her meetings with Tripp were "[a]t times . . . collegial, collaborative, friendly. At times we discussed issues with other board members and my concerns and his concerns. At times there was laughter." Thorp thought that Tripp was a very good president, but was also "testy"; he "lost his temper a little bit more than he should have" and when he was mad, you could tell. Thorp said that, while he was "peaceable" as president, Tripp was "very direct." Thorp expressed his belief that the Board's president should be more hands-off, but that Tripp was a more "hands on" president.

Testimony and evidence showed that Tripp eventually came into conflict with Hart over their respective roles in conducting the school district's business. For example, in August 2006, Tripp informed Hart by e-mail that he "disagreed" with and took "offense" at Hart's comment at a recent board meeting. He did not like that Hart implied that all Board communications should go through her—even communications among the Board's members: "I guess I am a little dismayed that you would think that board communication should always go through you or that you believe that you should always be in the loop. The board is the governing body and discussion between board members, on a one to one basis, is sometimes critical to communicating ideas and thoughts." In that same month, Tripp asked Hart to share her goals for the upcoming year with the Board. Hart responded that she was not sure about what Tripp was referring to because she had not been "required to write goals" before and it was the Board's responsibility to develop "5 year goals." She wondered if she had missed something and whether this was a board "directive" or "something new."

Tripp cited these problems, and those mentioned by other members of the Board, in a document entitled "Superintendent Evaluation Comments", which was dated February 2007. In that document, Tripp listed various concerns raised by Board members: that Hart did not keep the Board informed and that the information from her seemed "filtered"; that every time the Board disagreed with Hart, she accused them of "micro-managing" her work; that she isolated

the Board by preventing members of the administration from talking with Board members; that she was losing support in the community and had a problem with conveying “the right message with the right tone” to the general public; that Hart did not delegate authority well and wanted to “take control” and did not accept “input and involvement” from others; and that she resisted change and refused to try new approaches. Overall, Tripp related that he was “very disappointed” in Hart’s approach and relationships, and especially her desire to control everything internally. He lamented that “the only way input occurred . . . was by argument or by becoming so frustrated that [he] ‘unloaded’ in an e-mail or conversation.” He also found it noteworthy that any time they discussed the “conflicts”, Hart accused the Board of being at fault and being a “bad board”. Tripp agreed that Hart accomplished many “great things under very difficult circumstances”, but stated that there needed to be work to “mend relationships” because “the negative things are over-shadowing her accomplishments.”

Hart stated that she felt like she had Tripp’s support up until March 2007. It was at that time that she learned from Tripp that the Board was contemplating placing her on administrative leave or buying out her contract. Hart agreed that she was aware of concerns about her contract, but disagreed that the concerns had anything to do with her behavior. She felt that she was simply being treated differently because she was “a female”; she explained that she came to this conclusion because, despite the fact that she “was doing everything they asked” there were “still concerns.” As a result, “I had nothing else to base it on other than male-female issues.” Hart testified that she began to express her concern to members of the Board that the problems were actually a matter of male-female issues and even told the Board that she felt like she was being treated like a secretary rather than a superintendent. She stated that several Board members agreed that the problems were related to male-female issues.

Thorp testified that overall he had not had problems with Hart’s performance. He also agreed that Hart came to him for advice about personality conflicts on several occasions. Thorp stated that Hart seemed to think that there were male-female issues involved and that, when Hart’s problems with the Board began, he and Hart were “grasping at straws to try to figure out what the issue was.” But he also stated that he could not “put [his] finger on anything that” would have led Hart to that conclusion. Nevertheless, he remembered discussing Hart’s “perception that there was a problem with her being a woman and sexism and that kind of thing” with the Board, even though he “didn’t necessarily always see it.”

Hart negotiated a new contract with the Board in March 2007. In the contract, the parties agreed that Hart would serve as the school district’s superintendent from July 2007 through June 2008. Notwithstanding the new contract, at a regular meeting in July 2007, one of the Board’s members, Jim Bertrand, moved to place Hart on administrative leave “to commence immediately and continue until further notice.” After Thorp expressed concern about the lack of prior discussion concerning such action, the Board voted to table the matter. At a special meeting held later that same month, 5 of the 7 Board members voted to suspend Hart with pay until further action of the Board. The Board also hired a retired superintendent to serve as interim superintendent pending a search for a permanent replacement. The new interim superintendent was a man.

Hart applied to be the superintendent of another school district in about July 2007. Hart accepted employment with the new school district effective September 2007 through June 2010. The new school district paid her a higher final compensation than she was being paid at the time of her suspension. In February 2008, the Board decided not to renew Hart's contract and to terminate her existing contract on the grounds that she accepted new employment in violation of the contract's terms. However, the school district had not paid Hart since she accepted employment with another school district. Hart testified that it was her position that Goodrich Schools had to continue to pay her throughout her suspension even though she had accepted employment with a different school district.

In December 2009, Hart sued Goodrich Schools and Tripp. She alleged that the school district and Tripp placed her on leave and fired her on the basis of her gender. She also alleged that, after she complained about gender discrimination, the school district and Tripp ultimately discharged her in substantial part out of retaliation for complaining about gender discrimination.

Goodrich Schools and Tripp moved for summary disposition in October 2010. They argued that the undisputed evidence showed that Hart did not suffer an adverse employment action because she was given a paid leave and was only terminated after she accepted employment as a superintendent with another school district. Goodrich Schools and Tripp also argued that the evidence showed that the school district had a legitimate, non-discriminatory reason for taking the actions that it did and that there was no evidence that the proffered reasons were a pretext. In response, Hart argued that her testimony regarding the male-female issues as well as a comment where Tripp referred to her as a "young lady" were direct evidence that the decision to suspend her with pay and later terminate her contract was a result of unlawful discrimination. She also argued that, given her exemplary performance, a reasonable jury could conclude that the reasons given by the school district for her suspension and termination were merely pretexts.

After hearing oral arguments and considering the evidence, the trial court determined that, under the facts of this case, Hart could not rely on the termination of her contract to establish an adverse employment action: "I think if she would have held onto her position until that point [her termination], you would have an argument. But she didn't. She took a better job." It also determined that a suspension with pay did not constitute an adverse employment action because Goodrich Schools did not "take away her pay", did not "fire her at that point", did not "demote her", and did not "put her in the classroom"; instead, they "said go home and we're going to pay you just as though you worked." Because Hart failed to establish that she suffered an adverse employment action, the trial court granted the school district and Tripp's motion for summary disposition and dismissed Hart's claims in November 2010.

After the trial court denied Hart's motion for summary disposition, Hart appealed to this Court.

II. SUMMARY DISPOSITION

A. STANDARDS OF REVIEW

This Court reviews de novo a trial court's decision on a motion for summary disposition. *Barnard Mfg Co, Inc v Gates Performance Engineering, Inc*, 285 Mich App 362, 369; 775 NW2d 618 (2009). A motion under MCR 2.116(C)(10) tests the factual sufficiency of a claim. *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999). A trial court properly grants summary disposition under MCR 2.116(C)(10) where, after considering the evidence in the light most favorable to the nonmoving party, the "proffered evidence fails to establish a genuine issue regarding any material fact." *Id.*

B. ADVERSE EMPLOYMENT ACTION

We shall first address Hart's claim that the trial court erred when it determined that she failed to establish that she suffered an adverse employment action. Hart sued Goodrich Schools and Tripp for unlawful discrimination under the Elliott-Larsen Civil Rights Act. See MCL 37.2101 *et seq.* Specifically, she alleged that Goodrich Schools and Tripp engaged in discriminatory practices in violation of the Act's anti-discrimination provision, see MCL 37.2202(1)(a), and unlawfully retaliated against her for opposing a violation of the Act, see MCL 37.2701(a). In order to establish a claim under either provision, Hart had to establish that she suffered an adverse employment action. *Chen v Wayne State University*, 284 Mich App 172, 201, 208; 771 NW2d 820 (2009).

As this Court explained in *Chen*, there is no exhaustive list of what constitutes an adverse employment action; rather, what constitutes an adverse employment action must be determined on a case-by-case basis in light of the unique characteristics of the individual plaintiff's employment situation. *Id.* The fact that the plaintiff might have perceived the employment action to be adverse is not sufficient; the plaintiff must demonstrate that the employment action was objectively adverse. *Id.* at 201-202. Similarly, the plaintiff bears the burden of showing that the adverse action was materially adverse and not just a matter of inconvenience. *Id.* at 201. A materially adverse employment action is "akin to termination of employment, a demotion evidenced by a decrease in wage or salary, a less distinguished title, a material loss of benefits, [or] significantly diminished material responsibilities . . ." *Id.* at 202 (quotation marks and citation omitted).

Here, Hart argued that she suffered an adverse employment action when she was suspended and then terminated. Although the termination of an employment contract would in most cases constitute an adverse employment action, under the present facts, Hart may not rely on her termination to support her claims of gender discrimination and retaliation. The undisputed evidence shows that Hart applied for a superintendent position with a different school district in July 2007 and accepted that position effective September 2007. It is further undisputed that this constituted a breach of her employment contract with Goodrich Schools and that the Board officially terminated her contract and voted not to renew only after it learned that Hart accepted the new position—that is, there is undisputed evidence that the Board would not have terminated its contract with Hart had she not first left to take employment with another school district. Thus, even though Hart did not formally sever her relationship with Goodrich

Schools by resigning,¹ the undisputed evidence showed that Hart effectively terminated her own employment contract by accepting employment as a superintendent for a new school district in direct contravention of the terms of her employment agreement with Goodrich Schools. Given this evidence, she cannot now shift responsibility for her actions to the school district.² Cf. *Champion v Nation Wide Security*, 450 Mich 702, 710-711; 545 NW2d 596 (1996) (stating that an employer may be held to have constructively discharged an employee where the employer subjects the employee to conduct that is so severe that a reasonable person in the employee's place would feel compelled to resign), overruled not in relevant part by *Hamed v Wayne County*, 490 Mich 1; 803 NW2d 237 (2011).

Hart also argued in response to Goodrich Schools and Tripp's motion that her suspension constituted an adverse employment action. Specifically, she noted that an employment action does not have to result in the loss of income in order to be adverse. She maintained that, because the suspension removed her duties and responsibilities and included a ban from entering the school district's properties without permission, it clearly constituted an adverse action. We agree that an employment action can be adverse even in the absence of proof that it results in a direct loss of income. However, Hart still had to demonstrate that her suspension was *objectively* and *materially* adverse. *Chen*, 284 Mich App at 201-202. To do that, she had to demonstrate that, given the circumstances of her employment, the suspension materially affected the terms and conditions of her employment to her detriment.

The undisputed evidence in this case showed that Hart received all the benefits and compensation required under her contract until she decided to accept an offer to become the superintendent of a different school district. Moreover, although the Board removed Hart's responsibilities and duties for the term of the suspension, there is no evidence that this materially affected the terms and conditions of her employment. Hart was a salaried employee hired for a term set by contract; and the terms of her contract established her compensation and benefits. As such, she had no expectation of continued employment after the end of the contract term and no expectation of compensation beyond that provided in her contract. And the inability to perform her responsibilities under the contract could, accordingly, have no conceivable effect on the terms and conditions of her employment because she would be entitled to the benefits negotiated under the contract even with the suspension. Hart might have a subjective belief that the suspension interfered with a term or condition of employment—perhaps because of the indignity of having been suspended—but her *subjective* beliefs were insufficient to establish that the suspension constituted an adverse employment action under the facts of her case. *Id.* Instead, she had to present *objective* evidence that her suspension affected a material condition of her employment. *Id.* We agree that she could have established this by presenting evidence that the

¹ There was evidence that, after Hart accepted employment with another school district, Goodrich Schools asked her to resign, but she refused. Hart, therefore, essentially forced the school district to take formal action.

² We note that Hart did not argue before the trial court that her suspension amounted to a constructive discharge that justified her decision to accept a superintendent position with another school district.

suspension constituted a hardship that made her working conditions unbearable or through evidence that her future compensation or prospects for professional advancement were detrimentally altered by the suspension. See, e.g., *Collins v Illinois*, 830 F2d 692, 703-704 (CA 7, 1987) (stating that a plaintiff can establish an adverse employment action by presenting evidence that the employer took action to make the employee's job undesirable or unbearable); *Forsyth v City of Dallas*, 91 F3d 769, 774 (CA 5, 1996) (noting that the plaintiffs established that their positions prior to transfer were more prestigious, had better working hours, and were more interesting). But she did not present such evidence. Indeed, the evidence shows the contrary; she continued to receive her full compensation and found gainful employment in the same capacity at a higher final compensation within a relatively short time of her suspension.³ Accordingly, under the unique facts of this case, we conclude that Hart failed to establish a question of fact as to whether her suspension—even if the Board intended it to be for the remaining duration of her contract—amounted to an adverse employment action.

The trial court did not err when it granted summary disposition in favor of Goodrich Schools and Tripp on the basis that she failed to present evidence that she suffered an adverse employment action.

C. EVIDENCE OF DISCRIMINATORY ANIMUS

Even if Hart could rely on the termination of her contract or had established that her suspension constituted an adverse employment action, we would still conclude that Goodrich Schools and Tripp were entitled to summary disposition because Hart failed to present evidence that any adverse employment action was motivated—in whole or in part—by a discriminatory animus.

In order to establish a prima facie case of gender discrimination under the Civil Rights Act, the plaintiff may present direct evidence that his or her employer took an adverse employment action on the basis of her gender. *Hazle v Ford Motor Co*, 464 Mich 456, 462; 628 NW2d 515 (2001). However, if the plaintiff does not have direct evidence that the employer's decision was motivated by gender, the plaintiff may establish a prima facie case through indirect evidence. Using the indirect method, the plaintiff must present evidence from which a finder of fact could infer that the plaintiff was a victim of unlawful discrimination using the burden shifting approach established in *McDonnell Douglas Corp v Green*, 411 US 792; 93 S Ct 1817; 36 L Ed2d 668 (1973). See *Hazle*, 464 Mich at 462. Under that approach, the plaintiff must present evidence that she (1) belongs to a protected class, (2) suffered an adverse employment action, (3) was qualified for the position, and (4) the action was taken under circumstances giving rise to an inference of unlawful discrimination. *Id.* at 463. Once the plaintiff presents sufficient evidence to establish a prima facie case under the indirect approach, a presumption of discrimination arises. *Id.* The presumption arises because it is presumed that the adverse action, if otherwise unexplained, was more likely than not based on the consideration of impermissible

³ During oral arguments before the trial court, Hart's lawyer conceded that she made more at her new job. Nevertheless, on appeal, Hart presented evidence that she makes less, but that evidence is not properly before us and we will not consider it. *Barnard Mfg*, 285 Mich App at 380-381.

factors. *Id.* But this presumption is rebuttable; if the employer presents evidence that the adverse employment action was taken for a legitimate, nondiscriminatory reason, the presumption created by the prima facie case drops away. *Id.* at 464-465. At that point, the plaintiff must present evidence from which the finder of fact could infer that the proffered reason was a mere pretext for unlawful discrimination. *Id.* at 465-466. And, in presenting such evidence, a plaintiff may not rely solely on evidence that a jury could disbelieve the employer's proffered legitimate, non-discriminatory reason. *Lytle v Malady (On Rehearing)*, 458 Mich 153, 175-176; 579 NW2d 906 (1998) (opinion by Weaver, J.). Rather, the plaintiff must present evidence, which may include the evidence proffered in the initial stage of the burden shifting approach, that gender was a determining factor in the adverse employment decision. *Id.* at 178.

In their motion for summary disposition, Goodrich Schools and Tripp argued that Hart had no direct evidence that the school district or Tripp made an adverse employment decision on the basis of Hart's gender. They also presented evidence that the Board placed Hart on suspension and terminated her contract for legitimate, non-discriminatory reasons—namely, her poor personal performance as superintendent. They further argued that Hart could not establish that the stated reason for her suspension and termination was for anything other than this legitimate, non-discriminatory reason. Once Goodrich Schools and Tripp made their properly supported motion for summary disposition on these bases, Hart had an obligation to present evidence that established a question of fact as to whether the ultimate decisions to suspend and terminate Hart were motivated, at least in part, by Hart's gender. *Barnard Mfg*, 285 Mich App at 374.

In response to Goodrich Schools and Tripp's motion, Hart contended that she had direct evidence that the decisions to suspend her and later terminate her contract were motivated by her gender. Specifically, she relied on her own testimony that, in conversations that she had with at least three of the Board's members, those members acknowledged that the problems that she was having with the Board were, in part, related to male-female issues. She also relied on Tripp's statement at a Board meeting where he related that the Board had hired "this young lady"—referring to Hart—"to take care of these things." She contends that Tripp's decision to refer to her as a young lady, rather than by her title, is clear evidence that he holds a bias against women and that he must have acted on that bias in causing Hart to be suspended and later in voting to terminate her contract. However, analyzing this evidence in the light most favorable to Hart, we conclude that the evidence is neither direct nor indirect evidence that the Board's decisions to suspend Hart and terminate her contract was motivated—even in part—by gender discrimination.

In order to prove that the Board unlawfully terminated her on the basis of her gender, Hart had to prove that the Board acted, at least in part, on a discriminatory animus; that is, she had to show that there was a "causal link between the discriminatory animus and the adverse employment decision." *Sniecinski v Blue Cross & Blue Shield of Michigan*, 469 Mich 124, 134-135; 666 NW2d 186 (2003). She could do this by presenting direct evidence that the decisions to suspend her and to terminate her contract were motivated by her gender. *Id.* at 132. Direct evidence is evidence that "requires the conclusion that unlawful discrimination was at least a motivating factor in the employer's actions." *Hazle*, 464 Mich at 462 (emphasis added, quotation omitted). Direct evidence can take the form of statements that are made at the time of the adverse employment action that, if believed, show that the decision was motivated in part by a discriminatory animus. See, e.g., *DeBrow v Century 21 Great Lakes, Inc (After Remand)*, 463

Mich 534, 538-539; 620 NW2d 836 (2001) (noting that the plaintiff's employer's statement that the plaintiff was "too old for this shit" was direct evidence of discrimination because it was made at the time the employer fired the plaintiff); *Harrison v Olde Financial Corp*, 225 Mich App 601, 603-604, 608 n7, 610; 572 NW2d 679 (1997) (holding that comments that the plaintiff was a good secretary "but the wrong color" and that the plaintiff should not be permitted to address an interviewer by his first name because the plaintiff was black are direct evidence that the decision not to hire the plaintiff was at least partially racially motivated). However, generally, isolated or stray discriminatory remarks are not relevant to establish a causal connection between an employer's discriminatory animus and the decision to subject an employee to an adverse employment action when separated in time from the adverse action. See *Krohn v Sedgwick James, Inc*, 244 Mich App 289, 297; 624 NW2d 212 (2001) (noting that an employer's remarks can fall on a continuum of relevancy and, for that reason, the trial court must consider several factors to determine whether the comment in issue is relevant to show that an employer took a challenged action on the basis of an employee's age). In this case, the evidence that Hart proffered was plainly not direct evidence that the Board's decisions were motivated, even in part, by her gender.

The evidence showed that Tripp did not refer to Hart as a "young lady" during any proceeding that involved the decisions to suspend her or terminate her contract. Thus, the comment—to the extent that it might permit an inference that Tripp held a bias against women—was not sufficiently connected to the adverse employment decisions at issue to permit an inference that Tripp's discriminatory animus played a role in those decisions. See, e.g., *DeBrow*, 463 Mich at 538-539 (noting that, because the remark that the employee was too old was made at the time the employer fired the employee, a reasonable jury could conclude that the employer was motivated by a discriminatory animus). Moreover, when this remark is examined in context, it is not clear that a reasonable jury could find that Tripp held a discriminatory animus on the basis of the remark.

The undisputed evidence showed that Tripp made the remark in response to comments by a member of the public at a Board meeting. Indeed, Hart testified that Tripp had become "angry with the person" and then pointed to Hart and said that that is what "we hire[d] this young lady here to do for us" Tripp testified that he made the comment in defense of the district and its staff:

There was one gentleman who had become a very—who had been very vocal about his displeasure with the actions and direction of the district. At that point we were again under verbal attack from this gentleman during [the] public comment portion of the meeting. He was in my opinion as president almost to the point of abusive as far as referencing the district and the people involved. And I do recall making the comment something to the nature of that is the responsibility of individuals such as this young lady right here, referencing Mrs. Hart.

Thorp too testified that Tripp made the comment in response to a member of the public at a contentious board meeting and he said that, although he cringed when he heard the comment, he did not think that Tripp “meant it in a, in a gender bias sort of way”

In context, it is plain that Tripp did not make the reference to highlight Hart’s gender or to demean her performance as a female superintendent, as opposed to a male superintendent. To the contrary, the undisputed evidence shows that the reference—even if some might perceive it to be disrespectful—was in defense of the actions taken by the school district under Hart’s administration. Accordingly, even when viewed in the light most favorable to Hart, the evidence concerning this comment does not permit an inference that Tripp held a discriminatory animus against women or against a woman superintendent; thus, it is neither direct or indirect evidence that Tripp’s later decision to support Hart’s suspension and the termination of her contract was motivated in part by such an animus.

Similarly, Hart’s testimony that several Board members agreed that some of the problems that the Board had with her were related to male-female issues was not direct or indirect evidence that the Board’s actions were motivated by a discriminatory animus. Hart’s testimony did not establish the nature of the male-female issues. And the phrase “male-female issues” can be a reference to an array of issues that do not involve a discriminatory animus. Hart’s testimony about male-female issues also did not establish who specifically had the male-female issues. Rather, she stated that several Board members agreed that the problems were related to male-female issues, but that testimony could just as likely mean that Hart herself had the male-female issues and that her issues were leading to the problems. Indeed, Thorp, who was Hart’s most ardent supporter on the Board, testified that Hart had the “perception” that there were male-female issues and that she was being treated differently because she was a woman, but he himself “didn’t necessarily always see it.” Even if a jury were to believe Hart’s testimony, it would nevertheless be left to speculate about whether the male-female issues involved a discriminatory animus and, if the issues did, who held the discriminatory animus. Stated another way, although Hart’s theory that the male-female issues involved a discriminatory animus on the part of one or more Board members was consistent with her testimony, the fact that one or more Board members held a discriminatory animus was not deducible from her testimony as a reasonable inference. See *Libralter Plastics, Inc v Chubb Group of Ins Cos*, 199 Mich App 482, 486; 502 NW2d 742 (1993). Therefore, this testimony was insufficient to establish that Goodrich Schools or Tripp was motivated, in whole or in part, to suspend Hart or terminate her contract on the basis of an improper gender bias. *Id.* (stating that “parties opposing a motion for summary disposition must present more than conjecture and speculation to meet their burden of providing evidentiary proof establishing a genuine issue of material fact.”).

In response to Goodrich Schools and Tripp’s motion for summary disposition, Hart failed to present any direct evidence that the Board was motivated to suspend her or to terminate her contract on the basis of a discriminatory animus. Further, although Hart arguably established a question of fact as to whether the Board’s decision to suspend her was actually motivated by her poor performance, she did not establish a “triable issue that discriminatory animus was a motivating factor underlying the employer’s adverse action[s].” *Lytle*, 458 Mich at 175. Accordingly, Goodrich Schools and Tripp were entitled to summary disposition of Hart’s gender discrimination claim on this basis as well.

D. RETALIATION

In their motion for summary disposition, Goodrich Schools and Tripp moved for summary disposition of Hart's retaliation claim on the ground that there was no evidence that the Board's decision to suspend her or to terminate Hart's contract was causally related to Hart's complaints about there being male-female issues. See *Barrett v Kirtland Community College*, 245 Mich App 306, 315; 628 NW2d 63 (2001) (stating that the plaintiff must show that his or her participation in an activity protected under the Civil Rights Act was a significant factor in the employer's decision to subject the employee to an adverse employment action). In response, Hart did not present any evidence that the Board's decision to suspend her or terminate her contract was related to her complaints to the Board about male-female issues other than the fact that the Board's actions took place after her complaints. But the fact that the Board took its actions after she complained about the male-female issues was not, by itself, sufficient to establish the required causal relationship. *West v Gen Motors Corp*, 469 Mich 177, 186; 665 NW2d 468 (2003) ("Something more than a temporal connection between protected activity and any adverse employment action is required to show causation where discrimination-based retaliation is claimed."). As such, Goodrich Schools and Tripp were entitled to summary disposition of Hart's retaliation claim on this alternative basis.

The trial court did not err when it dismissed Hart's claims on summary disposition.

Affirmed. As the prevailing parties, Goodrich Schools and Tripp may tax their costs. MCR 7.219(A).

/s/ Michael J. Kelly
/s/ E. Thomas Fitzgerald
/s/ Pat M. Donofrio