

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

KELLI S. POWELL

PLAINTIFF

vs.

CASE No. 08-3042

NORTH ARKANSAS COLLEGE

DEFENDANT

O R D E R

NOW on this 1st day of May 2009, the above referenced matter comes on for consideration of defendant's **Motion for Summary Judgment (Doc. 9)**. The Court, being well and sufficiently advised, finds and orders as follows:

1. The plaintiff, Kelli S. Powell, brings this action under the Family Medical Leave Act, 29 U.S.C. § 2601, *et seq.* (hereinafter "FMLA") The plaintiff asserts that the defendant violated her rights by terminating her employment because she took leave under the FMLA.

The defendant denies plaintiff's rights were violated, and moves for summary judgment with respect to plaintiff's claims.

2. The Court is required to analyze a motion for summary judgment in the light most favorable to the party opposing it and to give to that party the benefit of any reasonable inferences which flow from the evidence available. Bailey v. United States Postal Service, 208 F.3d 652, 654 (8th Cir. 2000); F.D.I.C. v. Bell, 106 F.3d 258, 263 (8th Cir. 1997). Utilizing those exacting standards, summary judgments are seldom appropriate in employment discrimination cases. Summary judgments should be sparingly used in employment discrimination cases and then only in those rare instances where there is no dispute of fact and where there exists only one conclusion. All the evidence must point one way and be

susceptible of no reasonable inferences sustaining the position of the non-moving party. See Johnson v. Minnesota Historical Soc., 931 F.2d 1239, 1244 (8th Cir. 1991).

3. In light of the standards to be applied, and after a thorough review of the pleadings and other materials properly before the it, the Court concludes that unresolved disputes of material fact exist and that those disputes should be decided by a jury. Accordingly, the Court deems it unnecessary to exhaustively review the proof marshaled by the parties at this point. The instant motion for summary judgment will, therefore, be **denied**.

IT IS, THEREFORE, ORDERED that defendant's **Motion for Summary Judgment (document #9)** should be, and it hereby is, **denied**.

IT IS SO ORDERED.

/S/JIMM LARRY HENDREN
JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE