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AT LYNCHBURG, VA
FILED

1/12/2024

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION**

KELLY BUCK,

Plaintiff,

v.

MODINE MANUFACTURING
COMPANY,

Defendant.

CASE NO. 6:23-cv-00039

MEMORANDUM OPINION
& ORDER

JUDGE NORMAN K. MOON

Plaintiff Kelly Buck has filed a six-count complaint against Defendant Modine Manufacturing Company, her former employer, alleging discrimination in violation of Title VII and the Virginia Human Rights Act (“VHRA”), Va. Code § 2.2-3900, et seq., and other claims. Modine filed a motion to dismiss one count of the complaint (Count VI), which is a “*Bowman* claim,” brought pursuant to Virginia common law. Plaintiff has not opposed or otherwise responded to Modine’s motion to dismiss this count.

Virginia law provides for a tort claim of wrongful termination in violation of Virginia public policy, describing it as a limited exception to Virginia’s employment-at-will doctrine. *Bowman v. State Bank of Keysville*, 331 S.E.2d 797 (Va. 1985). As Modine notes, Plaintiff cited the VHRA as providing the public policy supporting her *Bowman* claim, i.e., the public policy that was allegedly violated by Modine’s misconduct. *See* Compl. ¶¶ 126–32. But, as numerous courts in this District and elsewhere have explained, a *Bowman* claim cannot be predicated upon a violation of VHRA’s public policy. *E.g.*, *Lipford v. Eastman Chem. Co.*, No. 4:23-cv-15, 2023 WL 7027970, at *3 (W.D. Va. Oct. 25, 2023). The VHRA itself provides a private right of action and an administrative scheme to effectuate that right, and a plaintiff “cannot work around

the structure, limitations, and remedies of the VHRA by bringing a related *Bowman* claim.” *Id.* (quoting *Hairston v. Nilit Am., Inc.*, 4:23-cv-11, 2023 WL 5447370, at *8 (W.D. Va. Aug. 24, 2023)).

For the reasons set forth in these decisions and cited in Modine’s brief, noting Plaintiff’s non-opposition, and finding good cause shown, the Court will hereby **GRANT** Modine’s motion to dismiss Count VI. Dkt. 8.

It is so **ORDERED**.

The Clerk of Court is directed to send this Order to all counsel of record.

ENTERED this 12th day of January, 2024.



NORMAN K. MOON
SENIOR UNITED STATES DISTRICT JUDGE