

STATE OF MICHIGAN  
COURT OF APPEALS

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KAY HERR,

Plaintiff-Appellant,

v

COUNTY OF OTTAWA, PHILIP ALDERINK,  
and LOREN SNIPPE,

Defendants-Appellees.

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UNPUBLISHED  
October 12, 1999

No. 211420  
Ottawa Circuit Court  
LC No. 96-026914 CK

Before: Griffin, P.J., and Zahra and S.L. Pavlich\*, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the trial court's order granting defendants' motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff worked for the County of Ottawa as a licensed practical nurse (LPN) at an adult foster care facility. The County created a full-time LPN supervisory position to replace the part-time position held by plaintiff. Plaintiff applied for but was not offered the full-time position. At the point plaintiff's employment was terminated, she had worked nine and one-half of the ten years needed to vest her pension.

Plaintiff's complaint alleged age discrimination in violation of the Elliott-Larsen Civil Rights Act, MCL 37.2101 *et seq.*; MSA 3.548(101) *et seq.* (Count I), and "unconscionable termination" (Count II). Defendants moved for summary disposition pursuant to MCR 2.116(C)(8) and (10). The trial court granted the motion as to Count I pursuant to MCR 2.116(C)(10), and as to Count II pursuant to MCR 2.116(C)(8) and (10). The trial court denied plaintiff's motion to amend her complaint to more specifically plead "unconscionable termination".

We review a trial court's decision on a motion for summary disposition de novo. *Harrison v Olde Financial Corp*, 225 Mich App 601, 605; 572 NW2d 679 (1997).

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\* Circuit judge, sitting on the Court of Appeals by assignment.

Plaintiff does not challenge the trial court's grant of summary disposition of her claim of age discrimination; however, she argues that the trial court erred by granting summary disposition of her claim of "unconscionable termination". We disagree and affirm. In the trial court, plaintiff did not argue that her employment was other than at will. At will employment contracts are terminable for any reason that is not repugnant to Michigan law. Nothing in Michigan law provides an employee with a right to employment until vested in an employee pension plan. The trial court properly viewed plaintiff's claim of "unconscionable termination" as a breach of contract claim alleging that defendants violated an implied covenant of good faith and fair dealing by terminating her employment six months before her pension vested. Plaintiff's claim is without merit. Michigan courts do not recognize a cause of action for breach of an implied covenant of good faith and fair dealing in the employment context. *Hammond v United of Oakland, Inc.*, 193 Mich App 146, 152; 483 NW2d 652 (1992). Plaintiff's claim is unenforceable as a matter of law. MCR 2.116(C)(8).

We review a trial court's decision to deny a motion to amend for an abuse of discretion. *Price v Long Realty, Inc.*, 199 Mich App 461, 469; 502 NW2d 337 (1993). Plaintiff sought to amend her complaint to assert a claim that is unenforceable as a matter of law; therefore, the trial court did not abuse its discretion by denying her motion to amend.

Affirmed.

/s/ Richard Allen Griffin

/s/ Brian K. Zahra

/s/ Scott L. Pavlich