

STATE OF MICHIGAN  
COURT OF APPEALS

---

MIKE CONNELLY and RANDY ROTH,

Plaintiffs-Appellants,

v

COMMUNITY HEALTH CENTER OF BRANCH  
COUNTY,

Defendant-Appellee,

and

BRANCH COUNTY,

Defendant.

UNPUBLISHED

May 26, 2000

No. 216551

Branch Circuit Court

LC No. 98-008578 NZ

---

Before: Wilder, P.J., and Sawyer and Markey, JJ.

PER CURIAM.

Plaintiffs appeal as of right from the trial court's order granting defendant-appellee Community Health Center of Branch County's (CHC) motion for summary disposition under MCR 2.116(C)(7). We reverse and remand for further proceedings. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiffs are certified registered nurse anesthetists who, while employed by CHC, reported illegal activity on the part of other employees. By letter dated April 29, 1998, plaintiffs were informed that their employment would be terminated effective May 31, 1998. On August 14, 1998 plaintiffs filed suit alleging that their termination violated the Whistleblowers' Protection Act (WPA), 15.361 *et seq.*; MSA 17.428(1) *et seq.* CHC moved for summary disposition pursuant to MCR 2.116(C)(7), arguing that plaintiffs' claim was time-barred because it was filed beyond the ninety-day statute of limitations. MCL 15.363(1); MSA 17.428(3)(1). The trial court granted the motion.

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).

The issue of whether a claim has been filed within the limitations period is one of law. *Solowy v Oakwood Hosp Corp*, 454 Mich 214, 216; 561 NW2d 843 (1997). We review a question of law de novo. *Cardinal Mooney High School v Michigan High School Athletic Ass'n*, 437 Mich 75, 80; 467 NW2d 21 (1991).

Plaintiffs argue that the trial court erred by granting defendant's motion for summary disposition. We agree, reverse the trial court's order, and remand for further proceedings. In *Jacobson v Parda Federal Credit Union*, 457 Mich 318; 577 NW2d 881 (1998), on which defendant relied below, our Supreme Court held that in a constructive discharge case brought under the WPA, the ninety-day statute of limitations begins to run from the date of the employee's resignation, but noted that in limited circumstances, such as delivery of notice of termination, a constructive discharge could be found to have occurred prior to resignation. *Id.*, 327 n 20. The *Jacobson* Court did not make such a finding, because that issue was not before it. Contrary to defendant's assertion, the *Jacobson* Court did not hold that in any discharge case brought under the WPA, the ninety-day statute of limitations begins to run on the date an employee receives a notice of discharge. *Jacobson, supra*, did not compel the granting of defendant's motion for summary disposition.

Pursuant to MCL 15.363(1); MSA 17.428(3)(1), a claim under the WPA must be filed "within 90 days after the occurrence of the alleged violation of this act." The Legislature is presumed to have intended the meaning it plainly expressed in statutory language. *Nation v WDE Electric Co*, 454 Mich 489, 494; 563 NW2d 233 (1997). In the instant case, the alleged violation of the WPA was plaintiffs' termination. Plaintiffs were terminated effective May 31, 1998. Their complaint was filed within ninety days of that date. The trial court erred in concluding that plaintiffs' claim was time-barred.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Kurtis T. Wilder  
/s/ David H. Sawyer  
/s/ Jane E. Markey