

STATE OF MICHIGAN
COURT OF APPEALS

BARBARA FLOOD,

Plaintiff-Appellant,

v

AMP-TECH, INC.,

Defendant-Appellee.

UNPUBLISHED

January 29, 2002

No. 227071

Mason Circuit Court

LC No. 99-000551-NZ

Before: Sawyer, P.J., and O'Connell and Zahra, JJ.

MEMORANDUM.

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

Plaintiff reported a noxious smell at work, had difficulty breathing and was taken to the hospital. When she returned to work several days later, she again reported the smell, and returned to the hospital. Shortly thereafter, her employment was terminated. Plaintiff brought this action alleging that she was terminated in retaliation for seeking worker's compensation benefits.

In *Sventko v The Kroger Co*, 69 Mich App 664; 407 NW2d 47 (1976), this Court recognized a public policy exception to the at-will employment doctrine when an employee is retaliated against for having filed a worker's compensation claim. The Legislature codified the *Sventko* holding in MCL 418.301(11). *Phillips v Butterball Farms Co, Inc (After Second Remand)*, 448 Mich 239, 248; 531 NW2d 744 (1995). The statute provides:

A person shall not discharge an employee or in any manner discriminate against an employee because the employee filed a complaint or instituted or caused to be instituted a proceeding under this act or because of the exercise by the employee on behalf of himself or herself or others of a right afforded by this act. [MCL 418.301(11)].

The statute prohibits discharge or discrimination only in retaliation for prior claims for worker's compensation benefits. *Wilson v Acacia Park Cemetery Ass'n*, 162 Mich App 638, 645; 413 NW2d 79 (1987). A retaliatory discharge premised upon an employer's anticipation of

a future claim does not state a cause of action. *Griffey v Prestige Stamping, Inc*, 189 Mich App 665, 668; 473 NW2d 790 (1991).

Plaintiff filed her claim for worker's compensation benefits months after she was terminated. Giving notice of an injury and obtaining medical treatment does not trigger the statutory protection. The trial court properly granted summary disposition to defendant.

Affirmed.

/s/ David H. Sawyer
/s/ Peter D. O'Connell
/s/ Brian K. Zahra