STATE OF MICHIGAN

COURT OF APPEALS

MARTHA GULLETT,

Plaintiff-Appellant,

v

AUTOFORM, INC., DEBBIE STRAHLE, and CLAUDIA ESTER,

Defendants-Appellees.

UNPUBLISHED
January 20, 2009

No. 281933
Washtenaw Circuit Court
LC No. 06-001095-NZ

Before: Talbot, P.J., and Bandstra and Gleicher, JJ.

MEMORANDUM.

Plaintiff appeals as of right from a circuit court order granting summary disposition to defendants pursuant to MCR 2.116(C)(10) in this action for violation of the anti-retaliation provision of the Worker's Disability Compensation Act (WDCA), MCL 418.301(11). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Plaintiff filed multiple claims for workers compensation benefits while employed with defendants. In April 2002, while working as a press operator, plaintiff's left hand was injured. She remained off work for approximately seven months and received worker's compensation benefits. When she returned to work with "restrictions," she was placed in a different position, which plaintiff identifies as a "checker." Plaintiff concurred that in her job as a checker, defendants attempted to meet her medical restrictions.

Plaintiff again experienced hand pain, while working as a checker in October 2003 and was temporarily off work. She was again able to return to work, with the same, previously imposed medical restrictions on her activity. In December 2004, plaintiff again experienced hand pain. While plaintiff was off work for approximately six weeks, she received worker's compensation benefits, and upon returning resumed her job as a "checker." Plaintiff was referred for further evaluation due to recurring pain in her left wrist and hand, radiating into her left arm, and diagnosed with tendonitis and issued work restrictions that included, "No repetitive use of hands and wrists." Plaintiff continued to work as a checker with restrictions until June 8, 2005, when plaintiff reported she could no longer perform her job because of the pain.

Ultimately, on December 1, 2005, defendant forwarded a letter to plaintiff notifying her of the exhaustion of all available leave under the Family Medical Leave Act and her termination of employment as of November 30, 2005. Plaintiff acknowledges that she was incapable of continuing to perform the assigned job.

Summary disposition may be granted under MCR 2.116(C)(10) when "there is no genuine issue of material fact, and the moving party is entitled to judgment . . . as a matter of law." This Court reviews a trial court's decision on a motion for summary disposition de novo. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999).

Plaintiff bore the burden of showing "that there was a causal connection between the protected activity . . . and the adverse employment action." *Chiles v Machine Shop, Inc*, 238 Mich App 462, 470; 606 NW2d 398 (1999). We agree with the trial court that viewed in a light most favorable to plaintiff, the evidence did not create a genuine issue of material fact with respect to causation. Mere temporal proximity between the protected activity and the adverse employment action is inadequate. See *West v Gen Motors Corp*, 469 Mich 177, 186; 665 NW2d 468 (2003). Plaintiff's reliance on statements made by employees or former employees of Autoform is misplaced. Assuming arguendo that the statements would be admissible as party admissions, MRE 801(d)(2), they only reflect the declarants' speculative opinions about probable reasons for plaintiff's discharge; there was no showing that the declarants had personal knowledge of the actual reasons for plaintiff's termination.

Affirmed.

/s/ Michael J. Talbot
/s/ Richard A. Bandstra
/s/ Elizabeth L. Gleicher