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NO. COA01-551

NORTH CAROLINA COURT OF APPEALS

Filed: 4 June 2002

SKIPPER ANDREWS,
Plaintiff

v.

Wake County
No. 00 CVS 00850

ADMINISTRATIVE OFFICE OF THE
COURTS, and THOMAS W. ROSS, in
his official capacity,
Defendants

Appeal by plaintiff from order entered 25 January 2001 by Judge David Q. LaBarre in Wake County Superior Court. Heard in the Court of Appeals 13 February 2002.

Schiller Law Firm, LLP, by Marvin Schiller and David G. Schiller, for the plaintiff.

Attorney General Roy Cooper, by Special Deputy Attorney General Alexander McC. Peters and Assistant Attorney General Staci Tolliver Meyer, for the defendants.

BRYANT, Judge.

On 31 January 2000, plaintiff Skipper Andrews filed a civil action alleging breach of employment contract against the Administrative Office of the Courts, the State of North Carolina, and (Judge) Thomas W. Ross in his official capacity (defendants). On 7 December 2000, defendants filed a motion for summary judgment, and on 23 January 2001, oral arguments were heard pertaining to defendants' motion at the civil session of Wake County Superior Court with the Honorable David Q. LaBarre presiding. Defendants'

motion for summary judgment was granted by order filed 25 January 2001. Plaintiff gave notice of appeal on 30 January 2001.

The pertinent facts are as follows. Plaintiff entered into a contract for temporary employment with the Administrative Office of the Courts (AOC) for the period of 4 January 1999 to 4 January 2000. Jeanne Bonds, AOC Deputy Director for Policy Planning and Communication, executed the contract on behalf of AOC. The agreement provided for termination of plaintiff's employment by either party "without cause upon two weeks notice." This was one of several employment contracts for temporary employment entered into between plaintiff and AOC. Each of the previous contracts had been for a term of one year.

Plaintiff's duties under the contract were to 1) work with procurement and budget to assess publications expenditures relating to legal research tools and make recommendations for change; 2) negotiate with private companies for services related to web publishing; 3) work as business manager for the web publishing project; and 4) to provide research expertise relating to electronic publishing and research tools.

On or about 4 October 1999, Judge Ross met with plaintiff to inform plaintiff that he was giving plaintiff two weeks notice of termination as required under plaintiff's employment contract. During the meeting, Judge Ross informed plaintiff that his contract was being terminated because of a shortage of funds and that the work plaintiff had been performing under a temporary employment contract needed to be consolidated under a permanent AOC employee.

Plaintiff informed Judge Ross that under plaintiff's employment contract, he was owed money for additional hours of work. Plaintiff indicated that he would provide time records for the additional hours. Judge Ross agreed to determine whether any amount was due for the additional hours. Plaintiff failed to provide AOC with time records regarding any amount due for the additional hours.

By letter dated 5 October 1999, Judge Ross terminated plaintiff's employment effective 23 October 1999. In the letter, plaintiff was informed that AOC intended to "exercise its option to terminate" the employment contract because of "severe budget restrictions" and that "the responsibility for decisions relating to the provision of legal resources" must be consolidated "under one of [AOC's] permanent employees."

On 2 November 1999, through his attorney, plaintiff informed Judge Ross that he had breached plaintiff's employment contract as there was a written addendum which extended the duration of the 4 January 1999 contract until 1 January 2001. Attached to the letter, plaintiff provided a copy of the contract and the purported addendum stating termination of the contract had to be "in writing with specified cause."

Acting on behalf of AOC, Judge Ross denied plaintiff's demand for payment. Plaintiff subsequently filed this claim seeking compensatory damages, a complete accounting of all sums owed to plaintiff, court costs, attorney's fees, interest, and reinstatement.

On appeal, plaintiff alleges that the trial court improperly granted defendants' motion for summary judgment. We disagree.

Summary judgment is proper "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that any party is entitled to a judgment as a matter of law." Once the moving party makes the required showing, the burden shifts to the non-moving party to produce a forecast of evidence demonstrating specific facts showing that he can at least establish a prima facie case at trial.

Eatman Leasing, Inc. v. Empire Fire & Marine Ins. Co., 145 N.C. App. 278, 280, 550 S.E.2d 271, 273 (2001) (citations omitted).

Plaintiff argues that defendants breached plaintiff's contract with AOC in that the contract addendum stated that plaintiff's termination must be in writing with specified cause. When the language of a contract is clear and unambiguous, our courts must construe said contract in conformity with its express provisions. See *Crider v. Jones Island Club, Inc.*, 147 N.C. App. 262, 266, 554 S.E.2d 863, 866 (2001). Assuming, *arguendo* that the addendum at issue is a valid, legally binding agreement, the clear and unambiguous language of the addendum states that termination must be "in writing with specified cause."

In the case at bar, plaintiff received written notification that he was being terminated because of "severe budget restrictions." We hold that plaintiff's termination for "severe budget restrictions" was based on a reasonable, job related

specified cause. Therefore, we conclude that the trial court did not err in granting summary judgment in favor of the defendants.

AFFIRMED.

Judges HUNTER and CAMPBELL concur.

Report per Rule 30(e).