IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Christine E. Singel and Michael N. Singel, her husband, Appellants	: : : :	
v.	:	No. 1468 C.D. 2007
	:	Submitted: December 7, 2007
Westmoreland County, a political subdivision of the Commonwealth of Pennsylvania, and Westmoreland County Board of Commissioners	: : : :	

BEFORE: HONORABLE DORIS A. SMITH-RIBNER, Judge
HONORABLE RENÉE COHN JUBELIRER, Judge
HONORABLE MARY HANNAH LEAVITT, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE LEAVITT[1] FILED: March 11, 2008

Christine E. Singel and Michael N. Singel appeal an order of the Court of Common Pleas of Westmoreland County (trial court) granting summary judgment to Westmoreland County and the Westmoreland County Board of Commissioners (collectively, the County), defendants in the Singels' declaratory judgment action. On the basis of the County's employee benefits information booklet, the trial court held that the Singels were entitled to no more than six months of medical[2] and life insurance coverage from the County after Mrs. Singel,

[1] This case was reassigned to the authoring judge on January 14, 2008.

[2] The medical benefits include prescription drug coverage, a hospital buy-out provision, vision coverage and long term disability benefits. Reproduced Record at 10a (R.R.___).

the County employee, stopped working and began receiving total disability workers' compensation benefits. Finding no error in the trial court's interpretation of the employee benefits booklet, we affirm.

Mrs. Singel was employed as an enforcement officer in the County's Domestic Relations Office. On March 17, 2003, she tripped on a cord and sustained a work-related injury. Since that date, she has been receiving total disability benefits pursuant to a notice of compensation payable. On October 20, 2003, the County sent Mrs. Singel a letter informing her that her employee medical, prescription, vision and life insurance coverages from the County would expire on November 1, 2003. The letter also explained that under the County's labor agreement and under the County's policy, she could continue these coverages by purchasing them at the County's group rate. An enclosure listed each coverage and the cost therefor.

In response, the Singels filed a declaratory judgment action against the County. They contended that the County was obligated to continue medical, prescription, vision and life insurance coverages for both of them so long as Mrs. Singel remained on workers' compensation disability. They based this contention upon the "Medical Leave" provision of the County's "Non Union Employee Information Booklet." R.R. 9a, 13a. Alternatively, they argued that the medical leave provision was ambiguous, entitling them to a construction in their favor.

The County defended, arguing that the Singels' interpretation of the employee information booklet provision was tortured. The County asserted that the Singels, like all County employees not working because they were on workers' compensation leave or unpaid medical leave, were entitled to no more than six months of hospitalization, prescription, vision and life insurance, at County

expense. Believing the employee information booklet to be clear on this point, the County moved for summary judgment in its favor.

The trial court granted summary judgment to the County. It found no ambiguity whatsoever in the medical leave provision of the employee information booklet. It held that this provision explained that an employee would receive six months of coverage "where the employee's leave is precipitated by either an unpaid medical leave or a leave in conjunction with an employee being on Worker's Compensation." Trial Court Opinion at 2. Thus, it granted judgment to the County.

On appeal, the Singels argue that the trial court erred.[3] The Singels maintain that the medical leave provision can be interpreted two ways and is, therefore, ambiguous. Because ambiguities must be resolved against the County as drafter of the employee information booklet, the Singels seek a reversal, requesting that this Court accept their interpretation of the employee information booklet.

The employee information booklet recites the terms and conditions of employee benefits. It does not state that it is itself a contract, but that seems to be the premise of the Singels' declaratory judgment action.[4] In any case, for purposes

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[3] This Court's scope of review of a trial court's grant of summary judgment is plenary. *Pettit v. Namie*, 931 A.2d 790, 796 (Pa. Cmwlth. 2007).

[4] Indeed, the employee information booklet states that the County Policy is the source of employee rights. A disclaimer in the booklet provides:

> This benefit information is written in layman's language for [the employee's] Convenience. It is not intended to interpret, extend, or change the rules and regulations of the benefit plans and existing County Policy. Should any difference arise in interpretation between the benefit plans and this information, the benefit plan documents and County Policies shall govern.

R.R. 14a. However, no party has asserted that this booklet is not dispositive.

of construing the booklet, it is appropriate to employ the principles used to resolve any question of contract construction.

When construing a contract, a court must give effect to all its provisions. *Adams v. Public Utility Commission,* 819 A.2d 631, 634 n.7 (Pa. Cmwlth. 2003). The words of the contract govern its construction, as this Court has explained:

> *A contract must be construed according to the meaning of its language.* The fundamental rule in construing a contract is to ascertain and give effect to the intention of the parties. *The intention of the parties must be ascertained from the document itself, if its terms are clear and unambiguous....*

Empire Sanitary Landfill, Inc. v. Riverside School District, 739 A.2d 651, 654 (Pa. Cmwlth. 1999) (citations and internal quotations omitted) (emphasis added). A contract provision is ambiguous,

> *if, and only if, it is reasonably or fairly susceptible of different constructions* and is capable of being understood in more senses than one and is obscure in meaning through indefiniteness of expression or has a double meaning. A contract is not ambiguous if the court can determine its meaning without any guide other than a knowledge of the simple facts on which, from the nature of language in general, its meaning depends; and *a contract is not rendered ambiguous by the mere fact that the parties do not agree upon the proper construction.*

Commonwealth State Highway and Bridge Authority v. E.J. Albrecht Company, 430 A.2d 328, 330 (Pa. Cmwlth. 1981) (quoting 8 P.L.E. CONTRACTS §146 (1971)) (emphasis added).

We begin with a review of the relevant provision in the employee information booklet.[5] It states as follows:

> **Medical Leave**
>
> **The County will pay hospitalization/prescription/vision/life insurance coverage for employees on Worker's Compensation* or an unpaid medical leave of absence *for a period of six (6) months* within any fifteen (15) month period *beginning with the effective date of any such unpaid leave*. Employees may purchase hospitalization/prescription/vision/life insurance coverage at the County's group rate until they have a break in their seniority. (Break in seniority is defined as an unpaid leave in excess of twelve (12) months)

R.R. 13a (emphasis added).[6] The Singels understand this provision to provide perpetual coverage where an employee is not working and collecting workers' compensation. The six-month limit, they argue, applies only to employees on unpaid medical leave. Because Mrs. Singel is not on unpaid medical leave, the

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[5] The provision in question is from a section of the booklet entitled "Time Off." The subjects addressed in this section include, vacation, holidays, personal days, sick time, bereavement pay, jury duty, personal leave of absence, firefighting and emergency management, military, workers' compensation, Family Medical Leave Act and medical leave. R.R. 11a-13a. The "Workers' Compensation" provision states:

> **Workers' Compensation**
>
> *Pay for time lost, medical bills due to work related injuries.

R.R. 13a. The logical place in the booklet to provide unlimited medical and life coverages to employees (and their spouses) on workers' compensation is in this provision.

[6] "Medical leave" is different from "sick leave," which is a form of paid medical leave. Employees may accrue up to 180 days of sick leave. R.R. 54a.

Singels contend their hospitalization, prescription, vision, and life insurance coverage must continue at County expense.[7]

The Singels read the words "County will pay hospitalization/prescription/vision/life insurance coverage for employees on Worker's Compensation …" as a stand alone sentence. R.R. 13a. There are several problems with the Singels' reading. First, it leaves unanswered the questions of when the County begins to pay for these insurance coverages for persons on workers' compensation leave and when it stops.[8] Second, this reading would provide no coverage for Mr. Singel because he is not an employee. Third, if the second clause of the first sentence applies exclusively to persons on unpaid medical leave, then that second clause lacks a subject or verb.

The trial court focused on the phrase "*any such unpaid leave*." The trial court reasoned as follows:

> I note that the provision relied upon by the plaintiffs first considers "Worker's Compensation or an unpaid medical leave," it then discusses the duration of the coverage, which begins "with the effective date of any such unpaid leave." This second reference to leave does not use the term "medical leave

[7] In Count I of the Complaint, Mrs. Singel averred, *inter alia*, that she had not taken an "unpaid medical leave of absence" from the County as a result of her work injury; that the provision limiting coverage to a designated period of time applied to an employee on an unpaid medical leave of absence; that the County's termination of coverage had caused Mrs. Singel to incur substantial medical costs; and that the County must continue in full force and effect all medical insurance, health insurance and life insurance coverage in effect at the time of the work related injury, for as long as Mrs. Singel receives workers' compensation. Count II of the Complaint contains averments that the County's action in terminating the medical and life insurance benefits of his wife also caused Mr. Singel to incur substantial medical costs.

[8] Since a start and stop date are provided, even under the Singels' interpretation, for persons on "unpaid medical leave," it is only logical that a start date, at a minimum, would be expressed for persons on workers' compensation leave.

> used earlier. The omission of the word "medical" as an adjective signifies that the six months limitation applies to both types of leave. Were it to apply to only medical leaves of absence, the drafters would have used the term "medical leave" again.

Trial Court Opinion at 2-3. We agree with the trial court's analysis.

The phrase "any such unpaid leave" refers to workers' compensation leave or unpaid medical leave. "Such unpaid leave" is distinguished from "sick leave" which is a form of paid medical leave. If "any such unpaid leave" does not refer to persons on workers' compensation leave, then there is no start date for the medical and life insurance coverages for persons on workers' compensation leave. The words used are "any such unpaid leave," and this choice of words makes no sense if the drafter actually meant "unpaid medical leave." The Singels' construction is rejected because it requires us to disregard the actual words appearing in the employee information booklet. Finally, there is no reason why the County would provide medical and life insurance coverages to employees on workers' compensation forever but impose a six month limit on other employees on "any such unpaid leave."

To be ambiguous, a contract must be "fairly and reasonably" susceptible to two readings. *Commonwealth State Highway*, 430 A.2d at 330. The Singels' reading of the medical leave provision of the employee benefit handbook is not fair and reasonable because it strays from the words actually chosen and sets up distinctions that make no sense. To determine whether a contract is ambiguous,

> a court must not rely upon a strained contrivance to establish one; scarcely an agreement could be conceived that might not be unreasonably contrived into the appearance of an ambiguity.

Steuart v. McChesney, 498 Pa. 45, 53, 444 A.2d 659, 663 (1982). To find an ambiguity here requires that we accept the Singels' strained contrivance, and we do not. We hold that the trial court did not err in its fair and reasonable interpretation of the medical leave provision.

For these reasons, we affirm the order of the trial court.

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MARY HANNAH LEAVITT, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Christine E. Singel and Michael N. Singel, her husband, Appellants	: : : :	
v.	:	No. 1468 C.D. 2007
Westmoreland County, a political subdivision of the Commonwealth of Pennsylvania, and Westmoreland County Board of Commissioners	: : : :	

ORDER

AND NOW, this 11th day of March, 2008, the order of the Court of Common Pleas of Westmoreland County dated July 3, 2007, in the above captioned matter is hereby AFFIRMED.

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MARY HANNAH LEAVITT, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Christine E. Singel and Michael N. Singel, her husband, Appellants	:	
v.	:	No. 1468 C.D. 2007
	:	Submitted: December 7, 2007
Westmoreland County, a political subdivision of the Commonwealth of Pennsylvania, and Westmoreland County Board of Commissioners	:	

BEFORE: HONORABLE DORIS A. SMITH-RIBNER, Judge
HONORABLE RENÉE COHN JUBELIRER, Judge
HONORABLE MARY HANNAH LEAVITT, Judge

OPINION NOT REPORTED

DISSENTING OPINION
BY JUDGE SMITH-RIBNER FILED: March 11, 2008

I respectfully dissent from the decision of the majority to affirm the order of the Westmoreland County Court of Common Pleas that granted summary judgment to Westmoreland County and to the Westmoreland County Board of Commissioners (collectively, the County) in this declaratory judgment action filed by Christine E. Singel and her Husband Michael N. Singel (Appellants). The question for review is whether the trial court erred in granting summary judgment based upon its interpretation of a provision in the County's employee benefits information booklet so as to find that Appellants are not entitled to medical and life insurance coverage through the County's plan as long as Wife Appellant continues to receive workers' compensation benefits. The majority contends that Appellants want the insurance coverage to continue "forever" at the County's expense when that clearly is not the case. They seek the coverage while Wife Appellant remains disabled from her work injury and continues to receive workers' compensation.

Wife Appellant was hired on October 22, 1984 initially as a file clerk in the County's Domestic Relations Office. She sustained a work-related injury on March 17, 2003 while employed as a lead enforcement officer in that office, and she currently receives workers' compensation. By letter dated October 20, 2003, the Department of Human Resources informed Wife Appellant that her medical and life insurance coverage would expire November 1, 2003 and that she could purchase coverage at the County's group rate until she had a break in her seniority. The letter referred to the following provision in the non-union employee booklet:

> **Medical Leave**
>
> *The County will pay hospitalization/prescription/ vision/life insurance coverage for employees on Worker's Compensation or an unpaid medical leave of absence for a period of six (6) months within any fifteen (15) month period beginning with the effective date of any such unpaid leave. Employees may purchase hospitalization/ prescription/vision/life insurance coverage at the County's group rate until they have a break in their seniority. (Break in seniority is defined as an unpaid leave in excess of twelve (12) months)

Reproduced Record (R.R.) at 13a. Appellants averred in their action, *inter alia*, that Wife Appellant had not taken an "unpaid medical leave of absence" due to her work injury; that the provision limiting coverage to a designated period of time applied to an employee on an unpaid medical leave of absence; that the County's termination of coverage caused Wife Appellant to incur substantial medical costs; and that coverage should continue while she receives workers' compensation.

I disagree with the trial court's determination that the medical leave provision is unambiguous and compels the interpretation "that the County will pay for insurance coverage for six months where the employee's leave is precipitated by either an unpaid medical leave or a leave in conjunction with an employee

being on Workers' Compensation." Slip op. at 2. The trial court cited *Welteroth v. Harvey*, 912 A.2d 863, 866 (Pa. Super. 2006), where the court explained that "[w]hen the language of a contract is clear, the contract speaks for itself and meaning cannot be given to it other than expressed." The provision first states that the County will pay insurance coverage for employees on workers' compensation or on an unpaid medical leave of absence. It then states the duration of coverage of six months within any fifteen-month period "beginning with the effective date of any such unpaid leave." The trial court reasoned that this later reference to "leave" does not use "medical" because the omission indicates that the six-month limitation applies to both types of leave. It concluded that the drafters would have used the term "medical leave" again if it were to apply only to a medical leave of absence.[1]

I agree with Appellants that the trial court erred in its interpretation of relevant language in the employee booklet, as does the majority. Appellants assert that the language is ambiguous and requires an interpretation consistent with applicable rules of construction, citing *Krizovensky v. Krizovensky*, 624 A.2d 638 (Pa. Super. 1993), and *Metzger v. Clifford Realty Corp.*, 476 A.2d 1 (Pa. Super. 1984). They correctly argue that the language meets all elements of ambiguity, *see Erie Ins. Co./Erie Ins. Exch. v. Flood*, 649 A.2d 736 (Pa. Cmwlth. 1994), and that contractual language is ambiguous when it can be understood in more than one way. The end of the first sentence of the provision contains the controversial

[1]The Court's review of a trial court's order granting or denying summary judgment is limited to determining whether the trial court abused its discretion or committed an error of law. *Fraternal Order of Police, Queen City Lodge No. 10 v. City of Allentown*, 894 A.2d 224 (Pa. Cmwlth. 2006). Summary judgment is appropriate only when, after review of the record in the light most favorable to the nonmoving party, it is determined that no genuine issue of material fact exists and that the moving party is entitled to judgment as a matter of law. *Davies v. Southeastern Pennsylvania Transportation Authority*, 865 A.2d 290 (Pa. Cmwlth. 2005).

language: "for a period of six (6) months within any fifteen (15) month period beginning with the effective date of any such unpaid leave." They argue that this clause makes no sense if it is applied to an employee off of work on workers' compensation because, by its terms, the period begins with the "effective date of any such unpaid leave." An unpaid medical leave is separate and distinct from absence due to workers' compensation, and the language limiting benefits to a six-month period can relate only to those employees on unpaid leave.[2]

The County disagrees with Appellants' interpretation of the provision, and it asserts that the trial court correctly held that the language is unambiguous, *i.e.*, covered employees receive six months of medical and life insurance coverage while on workers' compensation or on any unpaid medical leave within any fifteen-month period. The County referred to the "contract provision" at issue and stressed that the trial court's interpretation of the contract provision should be upheld by this Court. The County does not dispute Appellants' position that rules pertaining to contract interpretation apply in resolving this matter.

In *School District of Monessen v. Farnham & Pfile Co., Inc.*, 878 A.2d 142, 148 (Pa. Cmwlth. 2005), the Court made the observation that "[t]he fundamental rule in interpreting the meaning of a contract is to ascertain and give effect to the intent of the contracting parties." Also, "[w]hen a writing is clear and

[2]Appellants argue further that the employee booklet is similar to an insurance contract and that they had no input into its drafting. Citing *Insurance Adjustment Bureau, Inc. v. Allstate Ins. Co.*, 588 Pa. 470, 905 A.2d 462 (2006), and *Prudential Property & Cas. Ins. Co. v. Sartno*, 588 Pa. 205, 903 A.2d 1170 (2006), they state that any ambiguity in that document should be construed against the County as its drafter. Moreover, their interpretation is not patently unreasonable, as the County contends, and would not require payment of benefits in perpetuity but only so long as Wife Appellant continues to receive workers' compensation and that the County should have drafted the employee booklet to be free from any ambiguity if the County intended a different interpretation.

unequivocal, its meaning must be determined by its contents alone." *Id.* Once a provision is considered ambiguous "the rule of *contra proferentem* requires the language to be construed against the drafter and in favor of the other party if the latter's interpretation is reasonable." *State Public School Building Authority v. Noble C. Quandel Co.*, 585 A.2d 1136, 1144 (Pa. Cmwlth. 1991) (footnote omitted). In *Erie Ins. Co./Erie Ins. Exch.* the Court noted that it is strictly a legal determination as to whether written contract terms are ambiguous. Moreover, a provision is considered ambiguous " '[i]f and only if, it is reasonably or fairly susceptible of different constructions and is capable of being understood in more senses than one and is obscure in meaning through indefiniteness of expression or has a double meaning.' " *TIG Specialty Ins. Co. v. Koken*, 855 A.2d 900, 909 (Pa. Cmwlth. 2004) (quoting *State Highway and Bridge Authority v. E.J. Albrecht Co.*, 430 A.2d 328, 330 (Pa. Cmwlth. 1981)), *aff'd*, 586 Pa. 84, 890 A.2d 1045 (2005).

It is well settled that summary judgment may be granted only in those cases where the right to relief is clear and free from doubt. *Sacco v. Township of Butler*, 863 A.2d 611 (Pa. Cmwlth. 2004). Here, the trial court erred in holding that the provision was unambiguous with regard to the County's duty to continue insurance coverage beyond six months for an employee off work and receiving workers' compensation due to a work-related injury. The County is not entitled to summary judgment because its right to relief is not clear. The language "beginning with the effective date of any such unpaid leave" is reasonably and readily susceptible to more than one interpretation or construction. *TIG Specialty Ins.* Importantly, the provision does not define the term "unpaid leave," and it is unclear as to whether the County perceives an employee on unpaid leave to be the same as an employee on workers' compensation. The two clearly are not the same.

The provision, moreover, does not define "medical leave," and it is unclear whether the County intends to apply the terms "medical leave" and "unpaid leave" interchangeably or as separate and distinct categories of employee status. Likewise, it is unclear whether the County intends to apply the terms "medical leave," "unpaid leave" or "workers' compensation" interchangeably or as separate and distinct categories of employee status, all with different meanings. The majority construes the medical leave policy by concluding, without any basis, that the phrase "any such unpaid leave" refers to workers' compensation leave or to unpaid medical leave when in fact an employee on workers' compensation due to a work injury is not on an unpaid medical leave. The majority continues by concluding that the County would not provide "forever" medical and life insurance coverage to employees on workers' compensation. It is not inconceivable that a county would continue insurance coverage for an employee disabled from a work injury rather than requiring the employee to absorb costs for such insurance while on workers' compensation. Regardless, that determination is for a fact finder.

In *Metzger*, 476 A.2d at 5, the court explained that "[w]hile courts are responsible for deciding whether, as a matter of law, written contract terms are either clear or ambiguous; it is for the fact finder to resolve ambiguities and find the parties' intent." When ambiguity exists, parol evidence is allowed to explain, clarify or resolve the ambiguity. *See Insurance Adjustment Bureau*. The trial court erred in granting summary judgment when the policy at issue is ambiguous. Its order should be vacated and this case remanded for evidentiary proceedings.

DORIS A. SMITH-RIBNER, Judge