

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

NOVEMBER 26, 1996

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 96-0050

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

ADRIAN BOURQUE,

Plaintiff-Appellant,

v.

LABOR AND INDUSTRY REVIEW COMMISSION,

Defendant-Respondent,

WAUSAU HOSPITAL, INC.,

Respondent-Respondent.

APPEAL from a judgment of the circuit court for Marathon County: VINCENT K. HOWARD, Judge. *Affirmed.*

Before Cane, P.J., LaRocque and Myse, JJ.

PER CURIAM. Dr. Adrian Bourque appeals a judgment affirming a Labor and Industry Review Commission decision finding that Wausau Hospital Center did not have a retaliatory motive when it terminated

his hospital office privileges. Because LIRC's decision is supported by substantial and credible evidence, we affirm the judgment.

Bourque has been employed by Wausau Medical Center (the clinic) as a radiation oncologist since 1981. The clinic provides radiological services to the hospital. From 1981 until August 1990, the hospital provided Bourque with office space at the hospital to facilitate patient care. In 1982, Bourque assisted a number of nurses who had filed discrimination complaints against the hospital. In 1983, he filed a discrimination complaint alleging that the hospital retaliated against him by recruiting a second radiation therapist for assisting the nurses in a dispute between the nurses and the hospital. In 1986, the hospital adopted a strategic business plan that included developing the oncology department as a "center of excellence." As part of this development, the hospital again attempted to recruit a second radiation oncologist in 1989 and 1990. After the new recruit spoke with Bourque, she declined the hospital's offer of employment. LIRC found that the hospital believed Bourque had undermined its efforts to achieve the goal of developing the oncology department into a center of clinical excellence and that it did not constitute unlawful retaliation for the hospital to hold Bourque's actions against him.

LIRC's findings regarding the hospital's motivations must be affirmed if supported by substantial evidence. *Muskego-Norway C.S.J.S.D. No. 9 v. W.E.R.B.*, 35 Wis.2d 540, 562, 151 N.W.2d 617, 628 (1967). It is not required that the evidence be subject to no other reasonable, equally plausible interpretations. *Hamilton v. ILHR, Dep't*, 94 Wis.2d 611, 617, 288 N.W.2d 857, 860 (1980). When two conflicting views of the evidence are both supported by substantial evidence, it is for LIRC to determine which view of the evidence it wishes to accept. *Robertson Transp. Co. v. PSC*, 39 Wis.2d 653, 658, 159 N.W.2d 636, 638 (1968).

The record contains evidence that supports LIRC's finding that the decision to suspend Bourque's office privileges was based on legitimate business reasons, not retaliation for his discrimination complaint. The hospital took no action against Bourque for seven years while his complaint was pending. It acted to remove him from his hospital office only after he interfered with the hospital's plan to hire a second radiation therapist. This plan was part of an overall strategic plan developed by the hospital, entirely unrelated to

Bourque's discrimination complaint. Bourque's view of this action, as part of a grand scheme to retaliate against him, is not compelled by the evidence.

Bourque argues that the hospital's retaliation motive is shown by its offer to return his office privileges upon dismissal of his discrimination claim. That offer was made in the context of settlement discussions. Had settlement been reached, numerous disputes between the parties would have been resolved. LIRC reasonably concluded that the settlement offer provided no evidence of retaliatory purpose.

By the Court. – Judgment affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)5, STATS.