COURT OF APPEALS
DECISION
DATED AND FILED

September 23, 1997

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

NOTICE

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

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.

No. 97-1581-FT

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT III

LARRY SWANSON,

PLAINTIFF-APPELLANT,

V.

SCHOOL DISTRICT OF BUTTERNUT, BOARD OF EDUCATION OF THE SCHOOL DISTRICT OF BUTTERNUT, DUANE BORTZ, PRESIDENT, BOARD OF EDUCATION OF THE SCHOOL DISTRICT OF BUTTERNUT, JEFF TEETERS, VICE PRESIDENT, BOARD OF EDUCATION OF THE SCHOOL DISTRICT OF BUTTERNUT, MICHAEL BIRCHMEIER, TREASURER, BOARD OF EDUCATION OF THE SCHOOL DISTRICT OF BUTTERNUT, A. THOMAS STEINER, CLERK, BOARD OF EDUCATION OF THE SCHOOL DISTRICT OF BUTTERNUT, GARY MERTIG, DIRECTOR, BOARD OF EDUCATION OF THE SCHOOL DISTRICT OF BUTTERNUT, AND WAUSAU UNDERWRITERS INSURANCE COMPANY,

DEFENDANTS-RESPONDENTS.

APPEAL from a judgment of the circuit court for Ashland County: THOMAS J. GALLAGHER, Judge. *Affirmed.*

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

PER CURIAM. Larry Swanson appeals a summary judgment dismissing his amended complaint seeking rescission of a resignation agreement entered into with the Board of Education of the School District of Butternut. Swanson argues that the agreement is ambiguous and that his claim is not barred by an election of remedies.[1] We conclude that the agreement is unambiguous. We therefore affirm the judgment.

Larry Swanson was an administrator for the Butternut school district. In 1994, allegations of financial improprieties, including misuse of the school district's credit card, were brought before the school board. After investigation, a hearing to consider discipline or termination was scheduled for September 13, 1994. On the date of the hearing, Swanson and the board negotiated, and Swanson signed, a resignation agreement obviating the need for a hearing.

The agreement provided, *inter alia*, that Swanson resign effective September 16. It also provided:

> 11. Swanson has 21 days to confer with counsel regarding the desirability of entering into this Agreement.
>
> 12. This Release and Resignation Agreement shall be considered to be binding and effective seven days after execution by the last party.

[1] This is an expedited appeal under RULE 809.17, STATS.

On September 30, 1994, Swanson informed the board of his desire to rescind the agreement. The board rejected Swanson's attempt to rescind because it was made beyond the seven-day limit in paragraph 12. Swanson filed suit, alleging various claims, including one for rescission. The trial court entered a summary judgment of dismissal based upon the language of paragraph 12.

An appeal from a grant of summary judgment raises an issue of law we review de novo. ***Brownelli v. McCaughtry*****,** 182 Wis.2d 367, 372, 514 N.W.2d 48, 49 (Ct. App. 1994). The object of contract construction is to determine the intent of the contracting parties, and we begin by looking to the language the parties used to express their agreement. ***Bank of Barron v. Gieseke,*** 169 Wis.2d 437, 455, 485 N.W.2d 426, 432 (Ct. App. 1992). If the terms are plain and unambiguous, the agreement is construed as it stands. ***Eden Stone Co. v. Oakfield Stone Co.,*** 166 Wis.2d 105, 115, 479 N.W.2d 557, 562 (Ct. App. 1991).

Whether a contract is ambiguous is a question of law decided independently of the trial court. ***Wausau Underwriters Ins. Co. v. Dane County,*** 142 Wis.2d 315, 322, 417 N.W.2d 914, 916 (Ct. App. 1987). Ambiguity exists if the contract is reasonably susceptible to more than one meaning. ***Id.***

Swanson argues that paragraphs 11 and 12 of the agreement are "inherently inconsistent." We disagree. The paragraphs permit a twenty-one-day period to consider entering into the agreement and a seven-day period after signing to rescind. The plain language is unambiguous.

Swanson argues that the "fatal flaw" with the district's construction of paragraphs 11 and 12 is that he was never given twenty-one days to consider the agreement. This argument misses the mark. Swanson makes no suggestion that his signature was coerced or involuntary. Swanson's failure to take the

twenty-one days to consider the agreement has no bearing on the question of its ambiguity.

The resignation agreement unambiguously provided Swanson with seven days within which to rescind. It is undisputed that he did not attempt to rescind the agreement during that period. Therefore, the trial court properly entered a summary judgment of dismissal. Our disposition renders it unnecessary to address the election of remedies issue.

By the Court.—Judgment affirmed.

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