

RENDERED: FEBRUARY 7, 2003; 10:00 a.m.
NOT TO BE PUBLISHED

Commonwealth Of Kentucky

Court of Appeals

NO. 2002-CA-000512-MR

JOHN WILLIAMS

APPELLANT

v. APPEAL FROM WEBSTER CIRCUIT COURT
HONORABLE TOMMY W. CHANDLER, JUDGE
ACTION NO. 00-CI-00221

WEBSTER COUNTY COAL, L.L.C.

APPELLEE

OPINION

AFFIRMING

** ** * * *

BEFORE: GUIDUGLI, JOHNSON AND KNOPF, JUDGES.

GUIDUGLI, JUDGE. John Williams ("Williams") appeals from a summary judgment entered by the Webster Circuit Court in his action seeking damages for breach of an employment contract. We affirm.

Williams began employment with Webster County Coal Corporation ("Webster") on October 10, 1988. On June 4, 1999, Williams argued with his supervisor on the question of whether

the supervisor's request for overtime was voluntary or mandatory. According to the record, the argument became heated and Williams used profanity towards the supervisor and poked the supervisor repeatedly in the chest.

The matter was reported to Webster's general manager, Alan Boswell ("Boswell"). Upon reviewing the matter, Boswell suspended Williams for three days after which Williams was allowed to return to work. Williams complied with Boswell's request to sign a letter indicating that he (Williams) would not use insubordinate language toward supervisors or co-workers and would work mandatory overtime when asked.

On June 16, 1999, a second incident arose when Williams became upset that a co-worker allegedly was operating a continuous miner machine in a manner which endangered Williams's safety. When Williams indicated to a supervisor that he had engaged in an argument with the co-worker,¹ the decision was made to allow Williams to leave the mine so as to stop the dispute from continuing.

The following day, Boswell terminated Williams's employment. Williams later filed the instant action in Webster Circuit Court. He alleged therein that he had an employment

¹The nature of this second dispute is not clear. Williams characterizes the conversation as one of concern for his physical safety near the continuous miner machine, whereas his supervisor said that Williams "blew up" and was trembling and on the verge of crying.

contract with Webster providing that he could be terminated only for cause, and that Webster breached the contract when it terminated his employment. Williams claimed that the contract consisted of an employee handbook provided by Webster to Williams during the course of his employment, and/or the June 9, 1999, letter he signed upon returning to work after his suspension.

Webster later filed a motion seeking summary judgment. As a basis for the motion, it argued that no employment contract existed and it was entitled to terminate Williams's employment as an employee at will. Upon taking proof on the motion, the trial court granted summary judgment in favor of Webster which dismissed Williams's complaint. This appeal followed.

Williams now argues that the trial court erred in sustaining Webster's motion for summary judgment. He argues that the employee handbook and June 9, 1999, letter constitute an enforceable employment contract under Kentucky law, and that Webster breached that contract by terminating his employment without cause. He maintains that Webster breached the covenant of good faith and fair dealing implied in the employment contract, and seeks to have the matter reversed and remanded for further proceedings.

We have closely studied the record, the law, and the written arguments, and find no error in the trial court's entry

of summary judgment. Williams's complaint, and the trial court's dismissal thereof, turn on the question of whether the employee handbook or the June 9, 1999, letter constitute an enforceable employment contract. We cannot conclude that the trial court erred in ruling that they do not.

As the parties are well aware, the "employment at will" doctrine in Kentucky provides that, as a general rule, an employee may be terminated for any reason or no reason at all. See generally, Product Oil Co. v. Johnson, Ky., 313 S.W.2d 411 (1958); Scroghan v. Kraftco Corp., Ky. App., 551 S.W.2d 811 (1977). A person is regarded as an at will employee unless there is a clear expression of intent between the employer and employee to alter that relationship such that the employee may be terminated only for cause. Shah v. American Synthetic Rubber Corp., Ky., 655 S.W.2d 489, 492 (1983). In the absence of such a clear expression, the assumption will be that the employee retains the employment at will status. Id., citing Edwards v. Kentucky Utilities Co., 286 Ky. 341, 150 S.W.2d 916 (1941).

We do not find Williams's argument persuasive. As the trial court properly found, the employee handbook is a unilateral expression of Webster's employment policy and is not an employment contract. Parties may enter into an employment contract, terminable only pursuant to its express terms, by clearly stating their intention to do so. Shah, 655 S.W.2d at

492. The handbook, while setting forth workplace policy, does not contain any clear expression of the parties' intent to abandon the at will employment relationship. In the absence of such a clear expression, the employment relationship between Williams and Webster was terminable at will, and we find no basis for concluding that the trial court erred in so ruling.

On the question of whether the June 9, 1999, letter constitutes an employment contract, we also find no error. Again, the issue is whether the letter contains a clear expression of the parties' intention to abandon the at will relationship. The June 9, 1999, letter merely states that Webster was allowing Williams to return to work after the first incident with the stipulation that Williams not behave in an insubordinate manner and work reasonable overtime. The letter describes these terms as "conditions" of employment, and we cannot conclude that the court erred in finding that this letter did not alter Williams's at will employment status.

Williams's final argument is that the court erred in failing to find that he presented proof that Webster breached the alleged employment contract. This argument is moot given our conclusion that the trial court properly found that no employment contract existed.

For the foregoing reasons, we affirm the summary judgment entered by the Webster Circuit Court.

ALL CONCUR.

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