[Cite as *Snedigar v. Miami Univ.*, 2011-Ohio-4365.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

David Snedigar,	:	
Plaintiff-Appellant,	:	
		No. 11AP-8
v.	:	(C.C. No. 2009-09698)
Miami University,	:	(REGULAR CALENDAR)
Defendant-Appellee.	:	

D E C I S I O N

Rendered on August 30, 2011

Daniel J. Picard, for appellant.

Michael DeWine, Attorney General, and *Randall W. Knutti*, for appellee.

APPEAL from the Court of Claims of Ohio.

SADLER, J.

{¶1} Plaintiff-appellant, David Snedigar, appeals from the judgment of the Court of Claims of Ohio denying his motion for summary judgment and granting the motion for summary judgment filed by defendant-appellee, Miami University. For the reasons that follow, we affirm.

{¶2} This breach of contract action arises out of appellant's employment with appellee that began on January 2, 2007 and continued until his termination on August 4, 2009. Appellant's initial appointment ended on June 30, 2007, the last day of the 2006-2007 fiscal year. On June 27, 2007, appellant was reappointed for the period of July 1, 2007 to June 30, 2008. On June 27, 2008, appellant was reappointed for the period of July 1, 2008 to June 30, 2009. Each appointment letter indicates that appellant was subject to the terms of employment stating that appellant's appointment was conditioned upon his full compliance with the applicable rules, regulations, and procedures of appellee.

{¶3} In 2008, appellant began a romantic relationship with co-worker Barbara Banks. According to appellant, the parties cohabitated for a time, but later separated as the relationship became "tumultuous." (Appellant's brief at 4.) Banks ultimately decided to end the relationship, and, in January 2009, Banks filed a report of harassment with the city of Trenton, Ohio, as well as a complaint with appellee's Office of Equity and Equal Opportunity ("OEEO"), alleging that appellant continued to contact her despite her repeated requests that he cease to do so. Appellee's OEEO Director, Matthew Boaz, spoke with appellant on January 16, 2009 about the complaint and possible consequences of appellant's continued attempts to communicate with Banks against her wishes. Regardless, appellant continued to initiate communications with Banks, which resulted in her filing a formal complaint with the OEEO on February 24, 2009, and obtaining an order of protection against appellant from the Butler County Court of Common Pleas, Division of Domestic Relations, on February 25, 2009.

{¶4} Appellee conducted an investigation, and, on April 3, 2009, Boaz issued a letter of finding that concluded appellant violated appellee's policy prohibiting harassment and discrimination. As a result, Boaz recommended that appellant be referred to the vice president for IT services for appropriate action to address the violation. Despite appellant's appeal of Boaz's conclusion and recommendation, on August 4, 2009, appellant was advised that his employment was terminated effective that day. At the time of his termination, appellant was employed as a media consultant in appellee's IT Communications Department.

{¶5} On December 28, 2009, appellant filed a complaint against appellee for breach of contract and violation of the covenants of good faith and fair dealing. Cross-motions for summary judgment were filed by the parties, and, on December 13, 2010, the trial court rendered a decision denying appellant's motion for summary judgment and granting summary judgment in favor of appellee. Essentially, the trial court concluded appellant's claims failed as a matter of law because at the expiration of appellant's appointment on June 30, 2009, he became an at-will employee whose employment could be terminated at any time without cause.

{¶6} This appeal followed, and appellant brings the following assignment of error for our review:

> THE TRIAL COURT ERRED BY GRANTING APPELLEE'S MOTION FOR SUMMARY JUDGMENT.

{¶7} We review the trial court's grant of summary judgment de novo. *Coventry Twp. v. Ecker* (1995), 101 Ohio App.3d 38. Summary judgment is proper only when the party moving for summary judgment demonstrates: (1) no genuine issue of material fact

exists, (2) the moving party is entitled to judgment as a matter of law, and (3) reasonable minds could come to but one conclusion, and that conclusion is adverse to the party against whom the motion for summary judgment is made, when the evidence is construed in a light most favorable to the non-moving party. Civ.R. 56(C); *State ex rel. Grady v. State Emp. Relations Bd*., 78 Ohio St.3d 181, 1997-Ohio-221.

{¶8} Under summary judgment motion practice, the moving party bears an initial burden to inform the trial court of the basis for its motion, and to point to portions of the record that indicate that there are no genuine issues of material fact on a material element of the non-moving party's claim. *Dresher v. Burt*, 75 Ohio St.3d 280, 1996-Ohio-107. Once the moving party has met its initial burden, the non-moving party must produce competent evidence establishing the existence of a genuine issue for trial. Id.

{¶9} Appellant contends that because he continued working under the existing employment agreement, it was error for the trial court to conclude that he was an at-will employee. It is appellant's position that had appellee "not breached the contract by unjustly terminating [him], he would have continued to be employed by [appellee]." (Appellant's brief at 7.) Appellant also contends that he was unjustly terminated by appellee because there was no testimony regarding any type of sexual harassment. According to appellant, his actions were not specifically prohibited by appellee's policy, and his actions were "not equivalent" to the actions of others who had been terminated for violating appellee's sexual harassment policy. (Appellant's brief at 10.)

{¶10} Under Ohio law, an employment relationship with no fixed duration is deemed to be at-will employment. *Hanly v. Riverside Methodist Hosps*. (1991), 78 Ohio App.3d 73, 77, citing *Henkel v. Educational Research Council* (1976), 45 Ohio St.2d 249.

In an at-will employment relationship, the employer may discharge the employee at any time, even without cause, so long as the reason for the discharge is not contrary to law. *Taylor v. J.A.G. Black Gold Mgt. Co.*, 10th Dist. No. 09AP-209, 2009-Ohio-4848, ¶12, citing *Wright v. Honda of Am. Mfg., Inc.*, 73 Ohio St.3d 571, 574, 1995-Ohio-114.

{¶11} In the matter before us, it is undisputed that each year of appellant's employment was governed by a written employment agreement with a specified expiration date. The last of these agreements expired by its own terms on June 30, 2009. After that date, the employment relationship became one without a fixed duration, and, as such, appellant was an at-will employee subject to termination at any time for any reason not contrary to law.

{¶12} There are two exceptions to the employment-at-will doctrine: promissory estoppel and an express or implied contract altering the terms for discharge. *Fennessey v. Mt. Carmel Health Sys., Inc.*, 10th Dist. No. 08AP-983, 2009-Ohio-3750, ¶8, citing *Mers v. Dispatch Printing Co.* (1985), 19 Ohio St.3d 100, 103-04. Though appellant does not allege promissory estoppel, he does assert he was not an at-will employee at the time of his termination because his employment agreement had been extended. In support, appellant relies on a letter from appellee's Human Resources Senior Director, Carol Hauser, which states:

> On June 15, 2009, the Department of Human Resources received a copy of the recommendation from your supervisor, Kristin Kieffer, that your employment be terminated based upon the findings of an investigation conducted by the Office of Equity and Equal Opportunity. Per your request, the University will conduct a hearing to determine if Ms. Kieffer's recommendations warrant such action.

> Although your current contract expired June 30, 2009, you will not receive an annual appointment letter pending the outcome of the hearing. However, you will continue in your role as the Media Production Supervisor until further notice.

{¶13} According to appellee, this letter demonstrates that appellee extended the employment that expired on June 30, 2009 for another term, and, thus, he cannot be considered to be an employee terminable at will. We disagree. While Hauser's letter indicates appellant could remain in his current position "until further notice," there is no indication that appellant's term of employment was being extended to the end of the next fiscal year or to any other date certain. Thus, we conclude the written employment agreement expired by its own terms on June 30, 2009, and that at the time of his termination on August 4, 2009, appellant was an at-will employee that could be terminated at any time and for any reason not contrary to law. Consequently, we find no error in the trial court's determination that appellee was entitled to judgment as a matter of law on appellant's breach of contract claim.

{¶14} The remaining claims in appellant's complaint allege appellee breached the covenants of good faith and fair dealing. "Ohio does not recognize a cause of action for breach of a covenant of good faith and fair dealing by an at will employee bringing a wrongful discharge claim against a former employer." *Tresner v. Pepsi-Cola Bottling Co. of Columbus* (Aug. 27, 1992), 10th Dist. No. 91AP-1093, citing *Kuhn v. St. John & W. Shore Hosp.* (1989), 50 Ohio App.3d 23, syllabus; *Cramer v. Fairfield Med. Ctr.*, 182 Ohio App.3d 653, 2009-Ohio-3338, ¶50 ("Ohio law does not recognize a good faith and fair dealing requirement in employment-at-will relationships."). Because we have determined appellant was an at-will employee at the time of his termination, we conclude appellee

was entitled to judgment as a matter of law on appellant's claims for breach of the covenants of good faith and fair dealing.

{¶15} Finding that the trial court properly granted appellee's motion for summary judgment, we overrule appellant's single assignment of error and hereby affirm the judgment of the Court of Claims of Ohio.

Judgment affirmed.

TYACK and CONNOR, JJ., concur.

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