

IN THE COURT OF APPEALS OF IOWA

No. 6-666 / 05-1151
Filed October 25, 2006

BEVERLY JEAN CORKERY,
Plaintiff-Appellant,

vs.

FARMERS COOPERATIVE TELEPHONE CO.,
Defendant-Appellee.

Appeal from the Iowa District Court for Tama County, Denver D. Dillard,
Judge.

Plaintiff appeals from a district court decision denying her claim for
wrongful termination of her employment. **AFFIRMED.**

John J. Wood and John R. Walker, Jr. of Beecher, Field, Walker, Morris,
Hoffman & Johnson, P.C., Waterloo, for appellant.

Charles E. Miller and Diane M. Reinsch of Lane & Waterman, L.L.P.,
Davenport, for appellee.

Considered by Vogel, P.J., and Miller and Eisenhauer, JJ.

MILLER, J.

Plaintiff Beverly Corkery, a former employee of defendant Farmers Co-Operative Telephone Company, appeals from a district court decision that denied her claim for the alleged wrongful termination of her employment. Corkery asserts the court erred when it determined she had not established that her employment had been terminated in violation of public policy, for exercising her right to pursue workers compensation benefits. Specifically, Corkery contends the court's factual findings are flawed, and the evidence demonstrates she was terminated in retaliation for filing a complaint with the defendant's Board of Directors about the manner in which her supervisor, Richard Baker, had handled her worker's compensation claim.¹

We review the district court's decision for the correction of errors at law. Iowa R. App. P. 6.4; *Business Consulting Servs., Inc. v. Wicks*, 703 N.W.2d 427, 429 (Iowa 2005). We are bound by the court's fact findings, provided they are supported by substantial evidence. Iowa R. App. P. 6.14(6)(a). Evidence is substantial if a reasonable mind would accept it as adequate to reach the same findings. *Wicks*, 703 N.W.2d at 429.

Because Corkery was an at-will employee, the defendant could terminate her employment at any time for any lawful reason. *Fitzgerald v. Salsbury Chemical, Inc.*, 613 N.W.2d 275, 281 (Iowa 2000). Her employment could not, however, be terminated in violation public policy. *Id.* It is well established that termination in retaliation for seeking workers' compensation benefits violates

¹ Corkery's petition additionally alleged that her termination violated contractual protections under the defendant's personnel policy manual. This claim was also rejected by the district court, and is not at issue on appeal.

public policy. *Weinzetl v. Ruan Single Source Transp. Co.*, 587 N.W.2d 809, 811 (Iowa Ct. App. 1998). However, in order to recover on such a wrongful termination claim, Corkery must establish that her decision to pursue workers' compensation benefits was "a determining factor" in the defendant's termination decision, in that it tipped the scale decisively in favor of termination. See *id.* Mere proof of protected conduct followed by termination is insufficient. *Id.*

Application of the foregoing principles leads us to uphold the district court's detailed, well-reasoned decision. Here, the district court determined that Corkery's termination was simply the board's acceptance of the following offer she made in a written request for mediation: "[I]f mediation is not possible, it leaves me no alternative but to ask the board to terminate me with a severance package." The court found the board had retained a mediator to explore the possibility of mediation, determined mediation was not a viable option, and accordingly terminated Corkery with a severance package, as she had requested. In addition, the court determined the Board's decision to terminate Corkery's employment was the result of a preexisting, documented personality conflict between Corkery and her fellow employees, and not her decision to pursue workers' compensation benefits.

A review of the record demonstrates these findings are supported by substantial evidence. While we find it generally unnecessary to outline the evidence that supports the district court's decision in this case, we will address Corkery's contention the court made an erroneous fact finding when it stated, "There is no evidence to show that any complaint was ever made to the Board about the claim for worker's compensation."

Corkery interprets the foregoing as a finding that she never made a complaint to the board alleging, among other things, Baker's unlawful and illegal handling of her workers' compensation claim. Corkery's claim might have some merit, provided the disputed statement were read in isolation. However, the statement must be read in the context of the entire district court decision.

Notably, the court's decision makes express references to the complaint Corkery filed with the board, which did protest Baker's handling of "Workman's Compensation Problems," including his failure to compensate her for, and denying her a raise based on, time she missed from work related to her workers' compensation injury. In addition, the disputed statement follows a discussion of Baker's actions, including determinations by the court that Baker's mishandling of Corkery's workers' compensation claim was a "mistake," and that in communications with the defendant's attorney Baker stated only that he believed Corkery could not be terminated until her workers' compensation claim had been resolved.

Under the circumstances the disputed statement is, at best, ambiguous. While it could arguably refer to Corkery's complaint to the board, it could as easily refer to a determination that Baker had never complained to the board about the fact that Corkery had filed a workers' compensation claim. If the district court's findings are ambiguous, we will construe them to uphold, rather than defeat, its judgment. *Johnson v. Kaster*, 637 N.W.2d 174, 177 (Iowa 2001).

The record contains substantial evidence in support of the district court's decision to deny Corkery's claim. We accordingly affirm the district court.

AFFIRMED.