

STATE OF MICHIGAN
COURT OF APPEALS

LAURETTA REISE,

Plaintiff–Appellant,

v

ANR PIPELINE CO, COASTAL CORPORATION,
and RONALD ANGLE,

Defendant–Appellees.

UNPUBLISHED

August 9, 1996

No. 176419

LC No. 93-315381-NZ

Before: Reilly, P.J., and Cavanagh and R.C. Anderson,* JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court’s order granting defendants summary disposition pursuant to MCR 2.116(C)(10). Plaintiff’s complaint alleged employment discrimination and retaliatory discharge under the Civil Rights Act, MCL 37.2101 *et seq.*; MSA 3.548(101) *et seq.* We affirm.

On appeal, an order granting or denying summary disposition is reviewed de novo. A motion for summary disposition may be granted pursuant to MCR 2.116(C)(10) when, except as to the amount of damages, there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Giving the benefit of reasonable doubt to the nonmovant, the trial court must determine whether a record might be developed that would leave open an issue upon which reasonable minds might differ. *Plieth v St Raymond Church*, 210 Mich App 568, 571; 534 NW2d 164 (1995).

In a case where the defendant claims an economically motivated reduction in force as the reason for discharge of an employee, a prima facie case of age discrimination requires an initial showing, by a preponderance of the evidence, that (1) plaintiff was a member of a protected class, (2) the plaintiff was qualified to assume another position at the time of the discharge, (3) age was a determining factor in the employer’s decision to discharge plaintiff. *Lyle v Malady*, 209 Mich App 179, 185-186; 530 NW2d 135 (1995). Once a plaintiff has presented a prima facie case, the defendant must come forward with evidence to rebut the presumption of disparate treatment by articulating some legitimate, non-

* Circuit judge, sitting on the Court of Appeals by assignment.

discriminatory reason for the termination. If the defendant carries this burden, plaintiff must then show that defendant's proffered reasons are mere pretext and that illegal discrimination was more likely defendant's motivation in discharging plaintiff. *Id.* at 186-187. In the context of a summary disposition motion, plaintiff need only establish a genuine issue of material fact regarding the existence of a prima facie case and pretext. *Id.* at 187-188.

Although viewing the evidence in this case in the light most favorable to plaintiff, plaintiff may have established a genuine issue of material fact with respect to her prima facie case, we find that plaintiff has failed to present a genuine issue of material fact to rebut defendant's legitimate, non-discriminatory reason for terminating plaintiff's position. Defendants claimed that plaintiff was discharged in a work-force reduction and presented evidence supporting that claim. Plaintiff failed to bring forth any evidence that the work-force reduction was a mere pretext for her dismissal. Accordingly, summary disposition pursuant to MCR 2.116(C)(10) was proper.

We also find no merit in plaintiff's retaliatory discharge claim. Plaintiff filed her complaint with the Department of Civil Rights at the end of August 1989. No adverse action was taken against plaintiff for nine months. Plaintiff has presented no evidence to show that the fact that her termination was announced one day prior to the civil rights hearing was anything but coincidence. Plaintiff bears the burden of establishing a causal link between participation in a protected activity (here, the filing of the complaint), and the adverse employment action. *Kocenda v Detroit Edison Co*, 139 Mich App 721, 726; 363 NW2d 20 (1984). Plaintiff did not demonstrate such a causal link, and therefore summary disposition pursuant to MCR 2.116(C)(10) was proper.

Affirmed.

/s/ Maureen Pulte Reilly
/s/ Mark J. Cavanagh
/s/ Robert C. Anderson