2014 IL App (1st) 133347-U

FOURTH Division
November 6, 2014

No.1-13-3347

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

DAWN KUPPERMAN, Plaintiff-Appellant, v. TANU, INC., d/b/a/RESTORATION SALON, et al., Defendants-Appellees.	)	Appeal from the Circuit Court of Cook County, Illinois. No. 12 L 2117 The Honorable Margaret Ann Brennan, Judge Presiding.

JUSTICE TAYLOR delivered the judgment of the court.
Presiding Justice Fitzgerald Smith and Justice Howse concurred in the judgment.

ORDER

¶ 1 Held: Employer's nonpretextual valid basis for discharging employee prevented employee from satisfying "causal relationship" requirement for retaliatory discharge claim.

¶ 2 Plaintiff Dawn Kupperman was hired in December of 2008 as a hairstylist by defendants Tanu Inc., doing business as Restoration Salon, and Timothy Weber. In June of 2010, plaintiff woke up with pain and swelling in her hands. After taking time off for treatment, plaintiff returned to work on July 9, 2010. Subsequently, plaintiff filed a workers' compensation claim on August 30, 2010. She was fired on August 31, 2010. She then brought an action against defendants for retaliatory discharge, claiming her termination was due to her filing a workers' compensation claim. Defendants' maintain that her termination was predicated on her failure to meet her sales goal, excessive tardiness, inability to timely perform customer services and improper dress. The circuit court entered summary judgment in favor of defendants.

¶ 3 BACKGROUND

¶ 4 Defendants operated a small hairstyling business which opened a second location in late December of 2008. Defendants hired plaintiff as a hairstylist for this new location, and on December 8, 2008, she, along with six others, began work when the doors opened.

¶ 5 On June 27, 2010, plaintiff woke with swelling and no movement in her right hand. She was diagnosed with trigger finger and carpal tunnel syndrome caused by repetitious movement. Plaintiff notified defendants of this injury the same day. Plaintiff returned to work on July 9, 2010. She received testing, treatment and cortisone injections during her time off. When she returned to work she wore a brace on her hand and was only able to work in a limited capacity.

¶ 6 In July 2010, defendants introduced a monthly sales goal for the salon's stylists. They had previously talked with the staff about implementing such a procedure. The stylists were informed during a staff meeting that they were expected to meet a sales goal of $6,000 in August, or they would be terminated.

¶ 7 In mid August 2010, plaintiff indicates she told defendants that she intended to file a workers' compensation claim. Defendants deny that they were ever informed that plaintiff was filing a claim. A notification of the pending claim was emailed to defendants on August 30, 2010 and delivered on August 31, 2010. It is standard procedure that Federal Express couriers ask for the signature of the individual receiving the delivery. There is a dispute as to who received this package at the front/desk reception area of the salon.

¶ 8 Defendants terminated plaintiff on August 31, 2010 at approximately 2:30 pm. Defendants told plaintiff she was being discharged because of her failure to meet the August sales goal.

¶ 9 On February 24, 2012, plaintiff filed a claim for retaliatory discharge claiming she was terminated for exercising her rights under the Workers' Compensation Act (the Act) (820 ILCS 305/1 *et seq*. (West 2010)).

¶ 10 The following testimony was elicited during discovery. Tim Weber, owner of Restoration Salon, testified that plaintiff was required to be at the salon during the 43 hours of its operation each week. He testified that she was consistently late from her starting in December 2008 until her discharge on August 31, 2010. Weber testified that he and his manager, Todd Anspauch, repeatedly warned plaintiff about being late. In May of 2010, Weber and Anspauch presented plaintiff with a written memo stating that she would be fired if she did not start showing up 15 minutes before opening time (which was at noon each day), and she needed to complete each haircut in an hour. She refused to sign the memo.

¶ 11 Weber testified that plaintiff was consistently away from her work station. He averred that it took plaintiff an exceedingly long time to complete a haircut and that there had been several customer complaints about plaintiff being too slow. Weber further testified that plaintiff's

appearance had been an issue. He maintained that her hair was always a mess and that her attire was unprofessional.

¶ 12 Weber testified that he had discussed her termination with Anspauch and Nicci Grimm, one of the other stylists, months prior to her discharge. He further testified that the last straw was plaintiff's inability to meet her sales goal.

¶ 13 Weber testified that plaintiff missed her goal by $1300. He also testified that two other stylists missed their goals, one of whom the goals did not apply to because he was new and still building his book of business. Further, this stylist was always at work on time and had no issue finishing haircuts in a timely fashion. The other stylist missed her goal by $400. However, she was an excellent employee and always arrived forty minutes before the salon opened. She had been entrusted with a key to the salon.

¶ 14 Anspauch testified that he was plaintiff's manager for her entire employment at the salon. He testified as to plaintiff's lateness on a daily basis. He also testified to the May 21 memo and that plaintiff was not willing to sign it. Anspauch further testified that he told plaintiff on many occasions to speed up her haircuts, but that she never got any faster. He also testified that as the goal period leading up to August 31, 2010 approached, he advised plaintiff she needed to increase her sales and that he supplied her with client contact information so she could call those people and get them in for services. Plaintiff never called any of these contacts.

¶ 15 Nicci Grimm, a co-worker of plaintiff's, started the same day as plaintiff. She testified that plaintiff was always late and that Weber had warned her many times about being late. Grimm testified that plaintiff had problems completing services for her clients. Grimm averred that the tardiness and the fact that her times never improved were affecting the salon's clients

because they had to wait longer than necessary. Grimm also testified that prior to July 2010, the staff had been warned several times that the sales quota was coming.

¶ 16 Emily Cummings, Weber's assistant from June 2009 until July 2010, testified that plaintiff was constantly late between 10 and 30 minutes. Weber constantly warned plaintiff about the tardiness. Cummings testified that the standard in the industry is to complete a women's haircut in one hour, and a man's within forty-five minutes. Plaintiff never met those industry standards. Grimm also testified that plaintiff would often dress unprofessionally, wearing short tops, leaving her stomach exposed.

¶ 17 Plaintiff testified that she was told to be at work 15 minutes prior to the salon opening. Plaintiff admitted being late for work and that she had an issue with tardiness. Plaintiff further stated that Weber had told her to be on time. Plaintiff further testified that Weber made comments to her about the speed with which she completed client services. Plaintiff averred that she was informed of the sales goal and that she would be terminated if she missed the goal. She admitted that she missed the August 31, 2010 sales goal. On August 31, 2010, Weber and Anspauch took plaintiff outside and informed her that she was being let go.

¶ 18 On July 29, 2013, defendants filed a motion for summary judgment which was granted on September 24, 2013. The trial court did not issue a written opinion. From this order plaintiff now appeals.

¶ 19 ANALYSIS

¶ 20 Plaintiff argues on appeal that the trial court erred in making credibility determinations at the summary judgment stage and failing to consider that the timing of plaintiff's discharge on the day after she filed her workers' compensation claim presents a genuine issue of material fact regarding defendants' motive, which thereby precludes summary judgment. We disagree.

¶ 21 We address whether summary judgment for defendant was proper on plaintiff's retaliatory discharge claim. 735 ILCS 5/2-1005(c) (West 2010). Appeals from trial court summary judgment orders are governed by well established rules. *West Bend Mutual Insurance Company, v. People*, 401 Ill. App. 3d 857, 864 (2010) (citing *Northern Illinois Emergency Physicians v. Landau, Omahana & Kopkam Ltd.*, 216 Ill. 2d 294, 305 (2005)). The summary judgment procedure allows the trial courts to determine whether a genuine issue of material fact exists but is not designed for the trial court to try a question of fact. *West Bend Mutual*, 401 Ill. App. 3d at 864 (citing *Northern Illinois*, 216 Ill. 2d. at 305). After a court reviews the pleadings, depositions, admissions and affidavits on file in the light most favorable to the nonmoving party, summary judgment is appropriate and the moving party is entitled to judgment as a matter of law when there is no genuine issue of material fact. *West Bend Mutual*, 401 Ill. App. 3d at 864, (citing *Northern Illinois*, 216 Ill. 2d at 305, citing *General Casualty Insurance Co. v. Lacey*, 199 Ill. 2d 281, 284 (2002)).

¶ 22 Summary judgment is considered to be a drastic means of disposing of a case which courts employ only after an extraordinarily diligent review of the record has been conducted so that the party's right to fully represent the factual basis for its claim is not preempted. *West Bend Mutual,* 401 Ill. App. 3d at 864 (citing *Northern Illinois*, 216 Ill. 2d at 305-06). Summary judgment should only be granted when the right of the moving party is clear and free from doubt." *West Bend Mutual*, 401 Ill. App. 3d at 864 (quoting *Northern Illinois*, 216 Ill. 2d at 306. While the opposing party need not prove its case, it must present a factual basis that would arguably entitle it to a judgment. *Chatham Corporation v. Dann Insurance,* 351 Ill. App. 3d 353, 358 (2004) (citing *Lyon Metal Products, L.L.C. v. Protection Mutual Insurance Co.,* 321 Ill. App. 3d 330, 338 (2001). Accordingly, we apply a *de novo* standard of review to the trial court's

order granting summary judgment motion. *West Bend Mutual*, 401 Ill. App. 3d at 864 (citing *Gaston*, 365 Ill. App. 3d at 314).

¶ 23 Defendants do not dispute that a cause of action for retaliatory discharge exists for an employee who is discharged for filing a workers' compensation claim. *Kelsay v. Motorola, Inc.*, 74 Ill. 2d 172, 181-82 (1978). However, defendants contend that plaintiff failed to create an issue of material fact as to whether her exercise of her rights under the Act was the reason for her discharge. Defendants assert that there is no evidence of an improper motive on their part. Plaintiff counters that because she was discharged on the day she filed her workers compensation claim, it can reasonably be inferred she was discharged because she had exercised her rights.

¶ 24 The general rule in Illinois is that an at-will employee may be discharged by an employer at any time and for any reason. *Pietruszynski v. McClier Corporation, Architects and Engineers, Inc.*, 338 Ill. App. 3d 58, 64 (2003) (citing *Buckner v. Atlanta Plaint Maintenance, Inc.*, 182 Ill. 2d 12, 17-18 (1998)). A limited and narrow exception to this rule was recognized by our supreme court in *Kelsay*, 74 Ill. 2d at 181. *Kelsay* recognized an employee's right to file a retaliatory discharge claim if he was fired for seeking workers' compensation benefits. *Kelsay*, 74 Ill. 2d at 181-82.

¶ 25 The Act (820 ILCS 305/1 *et seq*. (West 2010)) was designed to promote speedy recovery without proof of fault for accidental injuries in the workplace. *Pietruszynski*, 338 Ill. App. 3d at 64. As our supreme court noted in *Kelsay:*

> "The Worker's Compensation Act, in light of its beneficent purpose, is a humane law of a remedial nature. [Citation.] It provides for efficient remedies for and protection of employees and, as such, promotes the general welfare of this State. Consequently, its enactment by the legislature was in furtherance of should public policy. [Citation]. We

are convinced that to uphold and implement this public policy a cause of action should exist for retaliatory discharge." *Kelsay*, 74 Ill. 2d at 181.

¶ 26 Cases brought for retaliatory discharge predicated on an employee's filing of a workers' compensation claim are reviewed using traditional tort analysis. *Siekierka v. United Steel Deck, Inc.*, 373 Ill. App. 3d 214, 222 (2007) (citing *Clemons v. Mechanical Devices Co.*, 184 Ill. 2d 328, 339 (1998)). The burden rests with the plaintiff to prove the elements of the cause of action. *Siekierka*, 373 Ill. App. 3d at 222 (citing *Clemons*, 184 Ill. 2d at 337). To sustain a cause of action for the tort of retaliatory discharge based upon the filing of a workers' compensation claim, an employee must prove: (1) that he was an employee before the injury; (2) that he exercised a right granted by the Act; and (3) that he was discharged and that the discharge was causally related to his filing a claim under the Act. *Siekierka*, 373 Ill. App. 3d at 222 (citing *Clemons*, 184 Ill. 2d at 335-36).

¶ 27 With these principles in mind, we turn to whether there existed a causal connection between plaintiff's termination and the filing of her workers' compensation claim. Plaintiff argues that a genuine issue of material fact exists concerning whether plaintiff informed defendants that she intended to file a workers' compensation claim two weeks before doing so. Plaintiff maintains that she told Weber at a restaurant, on or about August 17, that she would be filing a workers' compensation claim. Defendants respond that this conversation never took place. Plaintiff asserts that the dispute as to this conversation taking place could undermine the credibility of defendants and therefore the trier of fact could disbelieve their testimony concerning their reasons for terminating plaintiff's employment.

¶ 28 Plaintiff further asserts that the dispute as to whether defendants knew of the claim at the time of her discharge is a genuine issue of material fact and should not be subject to summary

judgment. Plaintiff points to the fact that a Federal Express package containing her claim was delivered to defendants on August 31, 2010 and signed for by T. Weber. Plaintiff notes that Anspauch testified that after plaintiff was terminated, he was then shown her workers' compensation claim by Weber. Plaintiff argues that because this is a key issue, the trier of fact must determine whether defendants were aware of the claim prior to her discharge and thus precludes summary judgment.

¶ 29 Defendants maintain that they were not aware of the claim at the time of discharge. Defendants argue that the fact that the Federal Express package was received at the front desk/reception area is not indicative that management was aware of the filing. Defendants point out that the Federal Express representative, who testified, claimed she had no knowledge whether Weber personally signed for the package. Additionally, Weber testified he could not remember ever receiving a Federal Express package on August 31, 2010.

¶ 30 More imoortantly, defendants point out that Illinois courts have repeatedly affirmed rulings on motions disposing of retaliatory discharge claims even when the employers were fully aware plaintiffs had filed workers' compensation claims. *Groark v. Thoirlief Larson & Sons, Inc.*, 231 Ill. App. 3d 61, 65 (1992); see also *Slover v. Brown*, 140 Ill. App. 3d 618, 621 (1992) (the discharge of an employee who has filed a workers' compensation claim does not satisfy the requirement of causal relationship if the basis for the discharge is valid and nonpretextual). In the case at bar, defendants note that all the witnesses deposed testified that plaintiff was excessively tardy, unable to timely complete client services and unable to make her sales quota. Where employers establish they had valid nonpretextual reasons for discharging the employee, the plaintiffs cannot meet the required element of their claim that there be a causal connection

between the filing of the claim and the discharge. *Hartlein v. Illinois Power Co.*, 151 Ill. 2d 142, 160 (1992). We agree.

¶ 31 We next consider plaintiff's contention that in cases of retaliatory discharge, the issue of an employer's motive in discharging an employee should not readily be the subject of summary judgment. *Hugo v. Tomaszewski*, 155 Ill. App. 3d 906, 909-10 (1987). The ultimate issue concerning the element of causation is the employer's motive in discharging the employee. *Siekierka*, 373 Ill. App. 3d at 222 (citing *Clemons*, 184 Ill. 2d at 336). " 'The element of causation is not met if the employer has a valid basis, which is not pretextual, for discharging the employee' ". *Siekierka*, 373 Ill. App. 3d at 222 (quoting *Hartlein*, 151 Ill. 2d at 160). If the employer is able to articulate a legitimate nondiscriminatory reason for the employee's discharge, then the plaintiff has an opportunity to prove by the preponderance of the evidence that the legitimate reason offered by the defendant were not true, but a pretext for discrimination. *Gomez v. The Finishing Company, Inc.*, 369 Ill. App. 3d 711, 719 (2006) (citing *All Purpose Nursing Service v. Illinois Human Rights Comm'n*, 205 Ill. App. 3d 816, 827 (1990)).

¶ 32 Plaintiff claims that at the time of discharge, Weber told her that the reason for her termination was plaintiff's inability to meet her sales quota; however, since the initiation of this complaint, Weber has proffered additional reasons for discharging plaintiff. These reasons include excessive tardiness, failure to perform client services in a timely manner, excessive breaks from her work station and her workplace attire. Additionally, plaintiff claims that the only documentation produced by defendants indicating dissatisfaction with plaintiff's performance is a single write-up, signed by Weber and Anspauch, which she denies ever receiving. While plaintiff admits to having issues with tardiness, she asserts she never received an official warning or reprimand.

¶ 33 Plaintiff in this case relies on the holding in *Hugo,* 155 Ill. App. 3d at 910, for the proposition that the timing of the termination precluded summary judgment. However, such reliance is misplaced. In *Hugo,* a retail shop employee fell and broke his hip on the job, filed a workers' compensation claim, and received disability payments. *Id.* After receiving benefits for six months, the employee returned to work. When he returned, he was laid off. His employer stated that the reason for the discharge was a decline in business. *Id*. However, shortly after this termination, the employer hired someone to fill a position at the store. *Id*. The *Hugo* court held that a genuine issue of material fact precluded summary judgment due to the timing of the termination. *Id.* at 910. In the case at bar, according to plaintiff, retaliatory discharge may be established by showing a short time span between the exercise of the employee's rights under the workers' compensation act and the employer's action discharging the employee. Plaintiff contends that, similarly, she was discharged a short time after filing her workers' compensation claim.

¶ 34 Defendants respond that *Hugo* is distinguishable on the facts. In contrast to the case at bar, in *Hugo,* the plaintiff was able to point to evidence that while he had 23 years experience at the store, the defendant hired a replacement worker for an employee who left the store after plaintiff's discharge without asking plaintiff to fill the opening, and that other employees had far less seniority than plaintiff. *Id*. at 911. The court agreed that defendant's failure to contact plaintiff regarding the next available opening at the store after his discharge supports an inference that plaintiff was discharged for a reason other than the decline in business. *Id.* The court found there was a genuine issue as to whether defendant discharged plaintiff for exercising his rights under the Act. *Id*. In the case at bar, defendants assert that the unrebutted, and in some cases, admitted, variety of valid, nonpretextual reasons for discharge relate to unreliable and

unacceptable work performance. Defendants note that numerous cases establish that summary judgment relief will be granted when, as here, plaintiff fails to present sufficient evidence to raise a genuine issue of material fact as to whether the stated valid reasons for discharge are not to be believed. *Carter v GC Electronics*, 233 Ill. App. 3d 237 (1992); *Fuentes v. Lear Siegler, Inc.*, 174 Ill. App. 3d 864, 867 (1988).

¶ 35 Defendants contend that *Groark* is more analogous to the case at bar, in which the plaintiff was a brick layer who filed a worker's compensation claim and was receiving benefits for five months. *Groak*, 231 Ill. App. 3d at 65. When he reported back to work, he was fired that day. *Id*. His employer proffered that he was being fired because of lack of work. *Id*. Plaintiff stated his dismissal was improper because he was being fired for exercising his rights. *Id.* The court found that the reason for termination was valid and nonpretextual. *Id*. Absent any evidence rebutting that defendant did not have work available, the plaintiff could not establish the required casual connection between termination and the exercise of his workers' compensation rights. *Id*.; see also *Slover v. Brown*, 140 Ill. App. 3d 618, 624 (1986) (holding that a valid nonpretextual reason for firing an employee includes excessive absenteeism).

¶ 36 Similarly, as in *Groark*, defendants have responded with nondiscriminatory reasons for the discharge. Defendants have chosen to come forward with valid nonpretextual reasons for termination of plaintiff's employment, including her failure to arrive at work on time, her frequent absences from her work station, her failure to meet her sales goals, her improper attire and her inability to timely complete haircuts. Moreover, there is corroborating testimony from defendants' employees and from plaintiff herself to support these assertions.

¶ 37 Furthermore, plaintiff has not presented any facts by affidavit, deposition or admission which would support an inference that plaintiff was discharged for exercising her right to seek

workers' compensation benefits. On the contrary, plaintiff acknowledged her violation of the defendants' policy regarding tardiness and her failure to meet the monthly sales quota. We note that the testimony supports the inference that plaintiff was discharged for violation of the defendants' policy and that plaintiff's admission in that regard corroborated such an inference.

¶ 38 We now turn to plaintiff's argument that because a fact-finder may infer intentional discrimination from an employer's untruthfulness, evidence that calls truthfulness into question precludes a summary judgment. *Zaccagnini v. Chas. Levy Circulating Co.*, 338 F. 3d 672, 677 (2003). Plaintiff maintains that at the time of her dismissal, defendant stated that she was being terminated because she failed to meet her monthly sales quota for August 2010. However, it was not until discovery that defendants articulated several other pretextual reasons for her discharge, such as appearance, excessive tardiness, and the inability to perform client services in a timely manner. *Perfetti v. First National Bank of Chicago*, 950 F. 2d 449, 456 (1992) (holding that when an employer gives one reason at the time of the adverse employment decision and another at trial that is unsupported by the evidence, "the jury could reasonably conclude that the new reason was a pretextual after-the-fact justification").

¶ 39 Plaintiff further maintains that the mere existence of a reason for termination of an employee which appears valid on its face does not defeat a claim of retaliatory discharge. Plaintiff, relying on *Gomez v. The Fishing Co. Inc.*, 369 Ill. App. 3d 711, 719 (2006), argues that she need not present direct evidence of a retaliatory motive or pretext. Plaintiff maintains that a plaintiff in a retaliatory discharge case "fulfills his burden of proof if he can show that the employer's explanation is not believable or raises a genuine issue of fact" as to whether the employer retaliated against the plaintiff. *Id*. at 719. In *Gomez,* the plaintiff brought a claim for retaliatory discharge where he was terminated approximately five weeks after calling

Occupational Health and Safety Administration (OSHA) to complain about his working conditions. 369 Ill. App. 3d at 712. The court found evidence of retaliation not only in the temporal connection between the call to OSHA and the plaintiff's discharge, but also through inconsistencies in the defendant's proffered reasons for discharging the plaintiff. *Id.* at 719-20. The court reasoned that "these inconsistencies could have diminished [the defendant's] credibility in the eyes of the jury and added weight to the allegation of pretext." *Id.* In the case at bar, plaintiff maintains that at the time of her discharge, Weber told her it was because of failure to meet the sales quota, but he has since added several pretextual performance related reasons for discharging plaintiff. She contends that these inconsistencies diminish the credibility of Weber and create a genuine issue of material fact concerning whether defendants' proffered reasons for terminating her were pretextual.

¶ 40 Defendants point out that in *Gomez,* plaintiff showed evidence of retaliation when plaintiff established that he was discharged without warning about five weeks after contacting OSHA. 369 Ill. App. 3d at 720. He presented the testimony of defendant's employees that they expected the person who called OSHA to be fired. *Id.* He also showed that his work history did not support a performance-related termination. *Id*. The defendant had articulated nonpretextual reasons for its actions, but plaintiff presented evidence that these reasons were not believable. *Id.* For all these reasons, the trial court found that plaintiff had established a *prima facie* case of retaliatory discharge.

¶ 41 By contrast, in the case at bar, defendants maintain that plaintiff failed to present any evidence that would indicate or imply that their reasons for firing her were pretextual. Defendants point out that plaintiff testified she was aware of the policy requiring her to be at her work station 15 minutes before the salon's opening each day, that she had an issue with tardiness

and that she would be discharged if she failed to meet her sales quota. There was evidence that these issues were ongoing from the time of her hiring to the time of her firing. Defendants correctly note that causation is not met where, as here, the employer has a valid basis, which is not pretextual, for discharging the employee. *Hartlien,* 151 Ill. 2d at 160.

¶ 42 Furthermore, here the trial court found that "it is the burden on the plaintiff to do more than make allegations or statements saying they believe that the reasons stated by the employer are pretextual in nature. There was ample evidence that there was not a genuine issue of fact that the firing of plaintiff was pretextual in nature." The valid and not-pretextual reason proffered by the employer must be believed by the trier of fact where there is no evidence to suggest a contrary conclusion. *Grabs v. Safeway, Inc.*, 395 Ill. App. 3d 286, 301 (2009).

¶ 43 Plaintiff did not provide the trial court with any factual basis in response to defendant's summary judgment motion which would present a genuine issue of material fact regarding defendants' motive. As previously noted, the mere discharge of an employee who has filed a workers' compensation claim does not satisfy the requirement of causal relationship if the basis for the discharge is valid and nonpretextual. *Groark,* 231 Ill. App. 3d at 65 (citing *Slover,* 140 Ill. App. 3d at 624); see also *Grabs*, 395 Ill. App. 3d at 293 (an employer may discharge an injured employee who has filed a workers' compensation claim as long as the reason for the discharge is wholly unrelated to the employee's claim for benefits under the Act.)

¶ 44 Thus, we conclude that plaintiff failed to establish any material facts which would arguably entitle her to judgment on her claim of retaliatory discharge. *Fuentes v. Lear Siegler, Inc.,* 174 Ill. App. 3d 864, 867 (1988) (summary judgment for the defendant was proper where the plaintiff's pleadings could not support the inference that the plaintiff was discharged for exercising his right to seek workers' compensation). Our conclusion is consistent with the

findings in *Hartlein*, 151 Ill. 2d at 166-67, where our supreme court held that no improper motive on the employer's part was shown and, therefore, evidence did not reveal that the employee was retaliatory discharged.

¶ 45 CONCLUSION

¶ 46 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 47 Affirmed.