

STATE OF MICHIGAN
COURT OF APPEALS

DAISY FRANKLIN,

Plaintiff-Appellant,

v

FORD MOTOR COMPANY,

Defendant-Appellee.

UNPUBLISHED

June 4, 1996

No. 173713

LC No. 92-232237 NO

Before: O'Connell, P.J., and Reilly and D.E. Shelton,* JJ.

MEMORANDUM.

Plaintiff appeals as of right the circuit court order granting defendant summary disposition on her claims brought pursuant to the Michigan Handicappers' Civil Rights Act (MHCRA), MCL 37.1101 *et seq.*; MSA 3.550(101) *et seq.*, and the Elliot-Larsen Civil Rights Act, MCL 37.2101 *et seq.*; MSA 3.548(101) *et seq.* We affirm.

We agree with the trial court that defendant was entitled to judgment as a matter of law pursuant to MCR 2.116(C)(10). In regard to her MHCRA claim, plaintiff raised no genuine issue of material fact which, if resolved in her favor, would establish that defendant's nondiscriminatory reasons for not rehiring plaintiff were pretextual. Assuming that plaintiff presented a prima facie case of discrimination, defendant established a legitimate business reason for its actions, by presenting proof that plaintiff was not rehired because she gave inaccurate information regarding her medical history and condition, did not comply with the plant physician's request for more information, and treated the plant physician in an insulting and disrespectful manner. Plaintiff has not denied giving erroneous information on the medical form. Her account of her interactions with the physician also does not establish that defendant's proffered reasons were pretextual. At most, it suggests that plaintiff was not rehired because of personality and communications problems between plaintiff and the physician. It does not support a finding of discrimination on the basis of a perceived handicap.

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

In regard to her sexual discrimination claim under Elliott-Larsen, we agree with the trial court that plaintiff failed to present proof creating a genuine issue of material fact that the decision not to rehire her was based on her pregnancy rather than on defendant's inability to accommodate her doctor's restriction, specifically, "that she be placed on a job where she can sit off [and] on." Defendant presented an affidavit of a labor relations representative stating that there were no positions available at the plant to accommodate the restriction when plaintiff was referred to the Labor Relations Office. Plaintiff did not present evidence that refuted this affidavit. Although plaintiff alleged that "[i]f she was [sic] a male with a similar restriction, she would have been hired," she did not provide factual support for this allegation.

Affirmed.

/s/ Peter D. O'Connell
/s/ Maureen Pulte Reilly
/s/ Donald E. Shelton