

STATE OF MICHIGAN  
COURT OF APPEALS

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CHERYL MERLINGTON,

Plaintiff–Appellant,

v

HURON COUNTY MENTAL HEALTH  
SERVICES,

Defendant–Appellee.

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UNPUBLISHED  
November 8, 1996

No. 184871  
LC No. 94-8719-NZ

Before: Markman, P. J., and McDonald and M. J. Matuzak\*, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court’s December 5, 1995, order granting defendant’s motion for summary disposition pursuant to MCR 2.116(C)(10), in this wrongful discharge action. We reverse.

Plaintiff argues the trial court erred in granting defendant’s motion for summary disposition regarding her constructive discharge claim. We agree. Constructive discharge occurs when an employer deliberately makes an employee’s working conditions so intolerable the employee is forced to resign. *Mollett v Taylor*, 197 Mich App 328; 494 NW2d 832 (1992). Motions for summary disposition are seldom appropriate in cases involving a question of intent. *Michigan National Bank v Wheeling*, 165 Mich App 738; 419 NW2d 746 (1988).

Giving the benefit of every reasonable doubt and drawing every reasonable inference in plaintiff’s favor, we find sufficient facts were alleged in her affidavit to infer defendant intentionally created a hostile work environment. *Farm Bureau Ins v Stark*, 437 Mich 175; 468 NW2d 498 (1991). Whether plaintiff’s working conditions were intolerable and whether defendant acted intentionally are questions of fact for the jury. Summary disposition was improper. *Vagts v Perry Drug Stores*, 204 Mich App 481; 516 NW2d 102 (1994).

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

Defendant's argument that plaintiff's appeal is moot is without merit. Having reviewed the evidence in support of plaintiff's claim, the trial court based its decision on MCR 2.116(C)(10) rather than MCR 2.116(C)(8). *Patterson v Kleiman*, 447 Mich 429; 526 NW2d 879 (1994); MCR 2.116(G)(5).

Plaintiff also alleges the trial court erred in granting defendant's motion for summary disposition regarding plaintiff's sexual discrimination claim. Again, we agree. Sexual discrimination is established when a plaintiff shows defendant treated similarly situated individuals differently because of their sex. *Schuyltes v Naylor*, 195 Mich App 640; 491 NW2d 240 (1992). Here plaintiff alleges she was denied the secretarial support afforded her male colleagues. Drawing every reasonable inference in plaintiff's favor, we believe plaintiff has alleged a sufficient factual basis to infer defendant discriminated against her because of her sex. Summary disposition was improper.

Reversed.

/s/ Gary R. McDonald

/s/ Michael J. Matuzak