

STATE OF MICHIGAN
COURT OF APPEALS

BLOSSOM HAZLE,

Plaintiff-Appellant,

v

FORD MOTOR COMPANY and FORD-UAW
RETIREMENT BOARD OF ADMINISTRATION,

Defendant-Appellees.

UNPUBLISHED

August 27, 1999

No. 204496

Wayne Circuit Court

LC No. 96-625870 CZ

Before: Neff, P.J., and Kelly and Hood, JJ.

PER CURIAM.

Plaintiff sued defendant, claiming racial discrimination in not promoting her. She appeals as of right the trial court's order granting defendants' motion for summary disposition pursuant to MCR 2.116(C)(8) and (10). We reverse.

This Court reviews decisions on motions for summary disposition de novo. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998); *Beaty v Hertzberg & Golden, PC*, 456 Mich 247, 253; 571 NW2d 716 (1997). In regard to a motion brought pursuant to MCR 2.116(C)(8), we review the sufficiency of a claim by the pleadings alone; the motion may not be supported with documentary evidence. *Simko v Blake*, 448 Mich 648, 654; 532 NW2d 842 (1995). A motion under MCR 2.116(C)(10) is reviewed to determine whether the affidavits, pleadings, depositions, or any other documentary evidence establishes a genuine issue of material facts to warrant a trial. *Spiek, supra* at 337. On appeal, as below, all reasonable inferences are resolved in the nonmoving party's favor. *Bertrand v Allan Ford, Inc*, 449 Mich 606, 618; 537 NW2d 185 (1995).

Plaintiff claims defendant did not hire her for the position of Retirement Board Office Manager because of her race due to the fact that defendants hired a less qualified Caucasian woman.¹ To establish a prima facie case of racially discriminatory hiring, plaintiff has the burden of proving: "(1) That [she] belonged to a racial minority; (2) That [she] applied and was qualified for a job for which the employer was seeking applicants; (3) That, despite [her] qualifications, [she] was rejected." *Smith v Union Charter Twp*(On Rehearing), 458 Mich 153, 172-173; 579 NW2d 906 (1998). "A prima facie case in *McDonnell Douglas* context means only that the plaintiff has proved enough evidence to

create a rebuttable presumption of discrimination. It does not mean that the plaintiff has provided sufficient evidence to allow the case to go to the jury.” *Harrison v Olde Financial, Inc*, 225 Mich App 601, 608; 572 NW2d 679 (1997). The prima facie case test should not be applied mechanically, but instead with deference to the unique facts of each case. *Lytle, supra*, 173, n 19.

Viewing the evidence in a light most favorable to the nonmoving party, we conclude that plaintiff did, in fact, provide enough evidence to establish a prima facie case for discrimination. It is uncontested that plaintiff belongs to a racial minority. Also, defendant Ford Motor Company’s letter to plaintiff, dated February 17, 1995, indicated that plaintiff has met the minimum requirements for the position and that she would be granted an interview. Further, plaintiff had been employed by defendant since 1980 as a pension clerk in the same department for which she now sought to obtain a supervisory position. Plaintiff possessed a Bachelor’s Degree in English and she had partially completed the requirements for a Master’s Degree. Despite plaintiff’s qualifications which defendant acknowledged, she was rejected for the position of office manager. Thus, we find plaintiff to have adequately alleged a prima facie claim of discriminatory hiring, and the trial court erred in ruling that that she had not done so.

Once plaintiff establishes a prima facie case for discriminatory hiring, the burden shifts to defendants to show that their actions were not a pretext for discrimination.² *Town v Michigan Bell Telephone Co*, 445 Mich 688, 695; 568 NW2d 64 (1997). If defendants do so, the burden is placed back onto plaintiff to prove that the reason offered was pretext *Lytle, supra* 458 Mich at 172-174; *Harrison, supra*, 255 Mich App at 608. Our Supreme Court has recently addressed this burden when it stated, “[D]isproof of an employer’s articulated reason for an adverse employment decision defeats summary disposition only if such proof also raises a triable issue that discriminatory animus was a motivating factor underlying the employer’s adverse action.” *Lytle, supra* at 174 (footnote omitted).

In the instant case, defendants hired Michelle Block, a Caucasian woman, for the office manager position.³ Defendants knew that she did not have a college degree, although they had listed that as a requirement for the job. They claimed however, that they believed that she possessed the best mix of skills which the position in question demanded. While she did not have a college degree, Block represented through her interview and curriculum vita that she had extensive management experience with substantial exposure to financial and accounting matters. Defendants indicated in deposition testimony that they were impressed with her strong, yet tactful, personality and believed she would be capable of instituting new ideas within the department. It was later determined, primarily through discovery relating to this lawsuit, that Block had misrepresented many of her alleged qualifications. She misrepresented her former job titles, duties, responsibilities, and education. Also, it was discovered that she had a history of disciplinary problems with former employers.

The record also reflects that defendants knew that she would require considerable training in order to do the job. A rational finder of fact could conclude that this was contradictory to their assertions.

Plaintiff’s allegations of pretextual discrimination include inferences from facts discovered after Block was hired. Plaintiff claims Block’s lack of education, skill, and experience sets forth a factual basis supporting a claim that racial discrimination was motivating factors in defendants’ decision making.

To the extent that the information that came to the light during discovery was not known by defendants, we disagree. As stated in *Dabrowski v Warner-Lambert Co*, 815 F2d 1076, 1079 (CA 6, 1987):

The relevant question, however, is whether [the selected candidate] was known to be qualified at the time he was hired. An employer may not be held liable merely for making an honest mistake as to an applicant's ability to do the job, for it is possible to make such a mistake with no intent to discriminate improperly against anyone.

Information that defendants did have, however, was enough to forestall summary disposition.

Plaintiff relies on *Pitts v Michael Miller Car Rental*, 942 F2d 1067 (CA 6, 1991) for the proposition that when a defendant's proffered nondiscriminatory reasons for adverse employment actions are inconsistent with the facts, they are undoubtedly pretext. Viewed in the light most favorable to plaintiff, here, as in *Pitts*, it can be argued that information known to the defendants contradicted their offered justifications.

The information relied on by defendants prior to her hiring tends to show Block did not have the qualifications to perform the tasks associated with the office manager position.

Accordingly the trial court erred by in granting defendant's motion for summary disposition.

Reversed.

/s/ Janet T. Neff

/s/ Harold Hood

¹ The position of Retirement Board Office Manager was advertised by defendants as follows:

Seeking individual with an Office Manager background to direct activities of a 6 person office responsible for the administration of pension benefits for over 85,000 pensioners of a major automotive retirement plan.. The qualified individual should have a BS degree in finance or accounting, have strong communication skills, and have office experience directing the work of others. The position is responsible for preparation of the payroll and accounts payable, maintenance of administrative records, and other retirement plan activities.

² The trial court did not reach the issue of pretext, concluding erroneously, as we have indicated, that plaintiff did not make out a prima facie case.

³ Plaintiff was one of two internal candidates. The other candidate, a Caucasian woman named Christ Ewald was a pension clerk like plaintiff.