

SUPERIOR COURT OF PENNSYLVANIA

Shick v. Shirey

456 Pa. Super. 668 (1997) (Superior Court of Pennsylvania 1997) · Decided March 19, 1997

SUMMARY

The Pennsylvania Superior Court affirmed the dismissal of an at-will employee's wrongful-discharge claim alleging retaliation for filing a workers' compensation claim. The court held that Pennsylvania law did not recognize such a cause of action absent express statutory language prohibiting retaliatory discharge or a sufficiently clear public-policy mandate. Three judges dissented, concluding that the Workers' Compensation Act inherently established a public policy protecting employees from retaliation.

CASE DETAILS

COURT	Superior Court of Pennsylvania
WRITING FOR THE COURT	Eakin, J.; Cavanaugh, J.; Cirillo, President Judge Emeritus; Popovich, J.; Johnson, J.; Hudock, J.; Ford Elliott, J.; Saylor, J.; Schiller, J.
JURISDICTION	Pennsylvania
DECIDED	March 19, 1997
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order sustaining preliminary objections in the nature of a demurrer to an at-will employee's complaint alleging retaliatory discharge for filing a workers' compensation claim.
STANDARD OF REVIEW	On review of an order sustaining preliminary objections in the nature of a demurrer, the court accepts as true all material facts alleged in the complaint and all reasonable inferences arising from them, and determines whether the law establishes with certainty that no recovery is possible; any doubt is resolved in favor of overruling the demurrer.
PRECEDENTIAL VALUE	Published precedential opinion of the Superior Court of Pennsylvania
PARTIES	David L. Shick v. Donald L. Shirey t/d/b/a Donald L. Shirey Lumber

TOPICS

- workers compensation
- retaliation
- wrongful termination
- employment at-will
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Pennsylvania recognizes a common-law cause of action for retaliatory discharge of an at-will employee who filed a workers' compensation claim.
2. Whether the complaint stated a claim under Pennsylvania's narrow public-policy exception to the at-will employment doctrine.

HOLDINGS

1. Pennsylvania does not recognize a cause of action for retaliatory discharge based solely on an at-will employee's filing for workers' compensation benefits when the Workers' Compensation Act contains no express prohibition against such discharge.
2. The complaint failed to state a cause of action because terminating an at-will employee for filing a workers' compensation claim did not, under then-existing Pennsylvania precedent or statutory language, violate a clearly mandated public policy.

KEY QUOTATIONS

“However, we hold there is no precedent or statutory language to find that terminating an employee who has filed for workers’ compensation benefits states a cause of action for retaliatory discharge.” (at 681)

“The question presented by the demurrer is whether, on the facts averred, the law says with certainty that no recovery is possible.” (at 670)

“As a general rule, no cause of action exists for terminating an at-will employment relationship.” (at 671)

FACTUAL BACKGROUND

Shirey hired Shick in October 1991 as an at-will employee without a written contract. Shick suffered a work-related knee injury on September 13, 1993, underwent surgery, and received workers' compensation benefits until March 1, 1994, when he was released to return to work. Shick alleged that after notifying Shirey of his availability, Shirey told him he no longer had a job because he had filed a workers' compensation claim.

PROCEDURAL HISTORY

Shick alleged that, after receiving workers' compensation benefits for a workplace injury and being released to return to work, his employer told him that he no longer had a job because of his workers' compensation claim. The Court of Common Pleas of Clarion County sustained the employer's demurrer for failure to state a cause of action. The Superior Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Clifton v. Suburban Cable TV Co., Inc., 434 Pa. Super. 139, 642 A.2d 512 (1994)
- Henry v. Pittsburg & Lake Erie Railroad Co., 139 Pa. 289, 21 A. 157 (1891)
- Stumpp v. Stroudsburg Municipal Authority, 540 Pa. 391, 658 A.2d 333 (1995)
- Geary v. United States Steel Corp., 456 Pa. 171, 319 A.2d 174 (1974)
- Krajsa v. Key punch, Inc., 424 Pa. Super. 230, 622 A.2d 355 (1993)
- Paul v. Lankenau Hospital, 524 Pa. 90, 569 A.2d 346 (1990)
- Clay v. Advanced Computer Applications, 522 Pa. 86, 559 A.2d 917 (1989)
- Macken v. Lord Corp., 402 Pa. Super. 1, 585 A.2d 1106 (1991)
- Kuzel v. Krause, 658 A.2d 856 (Pa. Commw. 1995)
- Butler v. Negley House, Inc., 20 Pa. D. & C.3d 543 (Pa. Com. Pl. 1981)
- Rettinger v. American Can Co., 574 F. Supp. 306 (M.D. Pa. 1983)
- Dietz v. Round Hill Foods, Inc., 49 Pa. D. & C.3d 222 (Pa. Com. Pl. 1987)
- Darlington v. General Electric, 350 Pa. Super. 183, 504 A.2d 306 (1986)
- Lankenau v. Pennsylvania Hospital, 524 Pa. 90, 569 A.2d 346 (1990)
- Highhouse v. Avery Transportation, 443 Pa. Super. 120, 660 A.2d 1374 (1995)
- Frampton v. Central Indiana Gas Co., 260 Ind. 249, 297 N.E.2d 425 (1973)
- Sventko v. The Kroger Co., 69 Mich. App. 644, 245 N.W.2d 151 (1976)
- Dockery v. Lampart Table Co., 36 N.C. App. 293, 244 S.E.2d 272 (1978)
- Martin v. Tapley, 360 So. 2d 708 (Ala. 1978)
- Segal v. Arrow Industries, 364 So. 2d 89 (Fla. Dist. Ct. App. 1978)
- Smith v. Piezo Technology and Professional Administrators, 427 So. 2d 182 (Fla. 1983)
- Cisco v. United Parcel Services, Inc., 328 Pa. Super. 300, 476 A.2d 1340 (1984)
- Turner v. Letterkenny Federal Credit Union, 351 Pa. Super. 51, 505 A.2d 259 (1985)
- Hunger v. Grand Central Sanitation, 447 Pa. Super. 575, 670 A.2d 173 (1996)