Employment: Employer's Misrepresentations about Employee's FMLA Eligibility Gives Rise to Equitable Estoppel Claim

Tilley v. Kalamazoo County Road Commission, No. 14-1679 (6th Cir. Jan. 26, 2015).

The Sixth Circuit has reversed in part the grant of summary judgment to a Michigan local government employer, finding that the dismissed employee detrimentally relied on the employer's material misrepresentations about his eligibility for benefits under the Family Medical Leave Act (FMLA).

Terry Tilley was employed by the Kalamazoo County Road Commission. He failed to produce several reports explaining various performance deficiencies, and claimed that he experienced heart attack symptoms on the day the reports were due and went for medical care. One week later, he received a letter from the Commission advising him that he should apply for FMLA benefits covering his time off. The requested reports were never provided and Tilley was terminated shortly thereafter. He filed suit, alleging violations of Michigan's age discrimination statute and claiming that his termination was retaliation for taking leave pursuant to FMLA.

The District Court for the Western District of Michigan granted the Commission's motion for summary judgment on the grounds that Tilley had not demonstrated age discrimination and was not an "eligible employee" entitled to leave under the FMLA because the Commission employed fewer than 50 people.

HELD: On appeal, the Sixth Circuit upheld summary judgment on the age discrimination claim but reversed on the FMLA claim.

DISCUSSION: The issues on appeal were whether Tilley was an "eligible employee" as defined in FMLA and whether he detrimentally relied on the Commission's misrepresentation about his eligibility for FMLA benefits.

The Circuit Court found that Tilley was not an "eligible employee" as defined in the FMLA, because the Commission did not employ at least 50 employees at its worksite (or within 75 miles thereof).

Alternatively, Tilley argued that the Commission was equitably estopped from raising his non-eligibility as a defense to his claim. In order to prevail on an equitable estoppel argument, an employee must show (1) a definite misrepresentation as to material fact, (2) a reasonable reliance on the misrepresentation, and (3) a resulting detriment to the party reasonably relying on the misrepresentation. The Court found that Tilley had satisfied all three elements. First, the Commission's Personnel Manual contained "unambiguous and unqualified" language that full-time employees, like Tilley, were covered under the FMLA. Second, the court concluded that a jury could find that Tilley had reasonably relied on this misrepresentation, based solely on Tilley's sworn affidavit

to that effect. Tilley stated that had he known that he was not eligible under FMLA, he would have stayed at work to the complete the assignments, the incompletion of which served as the basis for his termination. The court stated that as long as an employee is able to point to some action or statement that indicates that his decision to take leave was contingent on his understanding of his FMLA status, the reliance element of the test would be satisfied.

(The Commission attacked the credibility of Tilley's assertion that he relied on the statement in the Manual before deciding to take leave. While the court recognized that there was "obvious reasons to doubt the veracity of Plaintiff's assertions," it left the ultimate question of Tilley's credibility for the jury to decide).

Finally, the court concluded that Tilley suffered a detriment as a result of his reliance on the Commissions misrepresentations. As such, the Commission was equitably estopped from raising Tilley's eligibility as a defense. Accordingly, the district court erred in granting summary judgment in favor of the Commission.

http://www.ca6.uscourts.gov/opinions.pdf/15a0013p-06.pdf (last accessed Jan. 29, 2015).