

IN THE COURT OF COMMON PLEAS OF
LYCOMING COUNTY, PA

ANGELA DIMARCO	:	
Plaintiff	:	NO: 09-01975
	:	
vs.	:	
	:	
SUSQUEHANNA HEALTH SYSTEM	:	CIVIL ACTION
Defendant	:	

OPINION AND ORDER

Plaintiff filed a Complaint on August 21, 2009. Plaintiff’s complaint alleges that she was wrongfully terminated from her employment as a Registration Clerk by the Defendant. Plaintiff specifically avers that on June 10, 2009 the Plaintiff’s home was “riddled with bullets while the Plaintiff was visiting her grandmother at another residence.” (Plaintiff’s Complaint, ¶ 5). On June 25, 2009 the Plaintiff was informed by her supervisor that her job was being terminated because of the bullet incident that happened at her home. The Plaintiff was later informed that it was necessary to discharge her because other employees were frightened, and pursuant to the hospital’s concern for good ratings and a good reputation. Plaintiff argues that although she is an at-will employee, she has stated a cause of action because the Plaintiff was “discharged in violation of a clear mandate of public policy.” Id. at ¶ 10. The public policy advanced by the Plaintiff is the policy “which prevents the discharge of an employee because that employee has been a victim of, or may be a witness to a crime.” Id. at ¶ 9.

The Defendant has filed Preliminary Objections to Plaintiff's Complaint in the Nature of a Demurrer. Defendant asserts that in failing to state a recognized public policy exception to the at-will employment doctrine, the Plaintiff's Complaint fails to state a claim for an exception to at-will employment, and a demurrer should be granted. This Court agrees.

The law on wrongful discharge in Pennsylvania is well established. Generally, an employer may terminate or discharge an employee with or without cause. Spierling v. First American, 737 A.2d 1250, 1252 (Pa.Super. 1999). "Absent a statutory or contractual provision to the contrary, the law has taken for granted the power of either party to terminate an employment relationship for any or no reason." Id. (citing Geary v. U.S. Steel Corporation, 319 A.2d 174, 176 (1974)).

The employer's privilege is not, however, absolute. Pennsylvania recognizes a few narrow public policy exceptions to the at-will employment doctrine. These exceptions are as follows:

[A]n employer (1) cannot require an employee to commit a crime, (2) cannot prevent an employee from complying with a statutorily imposed duty, and (3) cannot discharge an employee when specifically prohibited from doing so by statute.

Spierling v. First American, 737 A.2d 1250, 1252 (Pa.Super. 1999) (citing Hennessy v. Santiago, 708 A.2d 1269, 1273 (Pa.Super. 1998)).

Plaintiff cites portions of the Pennsylvania Crimes Code in support of her argument that a public policy exception should be found. Specifically, the Plaintiff relies upon 18 Pa.C.S.A. § 4957.

18 Pa.C.S.A. § 4957 provides:

- (a) General rule.—An employer shall not deprive an employee of his employment, seniority position or benefits, or threaten or otherwise coerce him with respect thereto, because the employee attends court by reason of being a victim of, or a witness to, a crime or a member of such victim's family. Nothing in this section shall be construed to require the employer to compensate the employee for employment time lost because of such court attendance.

The statute relied upon by the Plaintiff pertains to witness intimidation, and employee leave for court obligations. It does not support Plaintiff's alleged public policy exception to the at-will employment doctrine. As the facts plead in Plaintiff's complaint fail to establish that the Defendant, Susquehanna Health System, required the Plaintiff to commit a crime, prevented or prohibited her from complying with a statutorily imposed duty, or support any other recognized public policy exception to the at-will employment doctrine, Plaintiff's complaint must fail.

ORDER

AND NOW, this 23rd day of November, 2009, following argument on the Defendant's Preliminary Objections, it is hereby ORDERED that the Defendant's Preliminary Objections are SUSTAINED and Plaintiff's Complaint is dismissed with prejudice pursuant to Pa.R.C.P. 1028 (a)(4).

BY THE COURT,

Richard A. Gray, J.

cc: Christian A. Lovecchio, Esquire

J. David Smith, Esquire

Gary Weber, Esquire