

NOTICE
This Order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

2021 IL App (4th) 210045-U
NO. 4-21-0045
IN THE APPELLATE COURT
OF ILLINOIS

FILED
September 20, 2021
Carla Bender
4th District Appellate
Court, IL

FOURTH DISTRICT

ERIC BERG, KHARA KOFFEL, TAMARA)	Appeal from the
O’HEARN, CHRIS STRANGEMAN, NADINE)	Circuit Court of
SZCZEPANSKI, KATHLEEN WHITE, and JEANNIE)	Morgan County
ZECK,)	No. 20MR47
Plaintiffs-Appellants,)	
v.)	Honorable
MACMURRAY COLLEGE,)	Christopher E. Reif,
Defendant-Appellee.)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.
Justices Harris and Holder White concurred in the judgment.

ORDER

¶ 1 *Held:* MacMurray College provided the professors who are the plaintiffs herein 60 days’ notice of the former’s cessation of operation. Relying on their employment agreements, the faculty argued they deserved more notice or severance pay. The trial court disagreed and entered summary judgment for the college. The appellate court affirms, concluding the trial court’s entry of summary judgment for the college was proper.

¶ 2 Defendant MacMurray College (College) was a private college in Jacksonville, Illinois. Plaintiffs Eric Berg, Khara Koffel, Tamara O’Hearn, Chris Strangeman, Nadine Szczepanski, Kathleen White, and Jeannie Zeck (Professors) were employed by the College as faculty pursuant to a Full Time Faculty Appointment Document (Appointment Document) for a term of August 15, 2019, to May 20, 2020. The Appointment Document incorporated a Faculty Handbook (Handbook), which the parties agreed provided some contractual protections. The Handbook addresses notice to faculty of termination of employment and entitlement to severance

in certain circumstances. The Handbook does not explicitly provide for notice or severance should the College cease operation.

¶ 3 On March 27, 2020, the College wrote a letter to the Professors, advising them that their employment would end May 27, 2020, which was after the end of their term as specified in the Appointment Document. The Professors sued, claiming the Handbook required the College to provide them with 15 months' notice of termination or, alternatively, severance pay equal to 15 months' salary.

¶ 4 After both parties filed motions for summary judgment, the trial court granted the College's motion and denied the Professors' motion, finding the Handbook did not address closure of the College.

¶ 5 The Professors appeal, and we affirm.

¶ 6 I. BACKGROUND

¶ 7 The Professors were tenured faculty employed by the College prior to its closure. The Appointment Document describes as to each Professor an "Appointment Term" of August 15, 2019, to May 20, 2020.

¶ 8 In their complaint, the Professors alleged the Appointment Document and Handbook imposed contractual obligations on both parties. The College agreed in its motion for summary judgment that the documents constituted a contract.

¶ 9 On March 27, 2020, the College wrote a letter to each of the Professors advising them that the institution was closing at the end of the 2019-2020 academic year, and that the Professors' employment would end on May 26, 2020, or at the end of their term as specified in their Appointment Document, if earlier. The employment of each of the Professors therefore ended after each of their appointed terms concluded.

¶ 10 In pertinent part, the Handbook provides in its preface, as follows:

“The Faculty Handbook is designed to provide members of the faculty access to *basic information* in policies, procedures, rules, and regulations that are of importance to them as teaching personnel employed at MacMurray College. The Faculty Handbook refers to policies of particular interest to faculty. The Faculty Handbook *does not refer to all policies and procedures* of the College, but contains or refers to those which are of particular interest to faculty.” (Emphases added.)

¶ 11 As to the appointment of faculty, the Handbook provides as follows:

“Members of the faculty are appointed initially and then reappointed annually by the President upon recommendation of the Provost.”

¶ 12 As to tenured faculty, the Handbook states the following:

“With a few exceptions for cause, as enumerated herein, tenured faculty are generally assured continued reappointment by the President, year after year.”

¶ 13 Chapter 15 of the Handbook describes various ways faculty may separate from the College, as well as the attendant procedures. The parties agree that all but two of those methods—termination for (1) “elimination of an academic program” and (2) “financial exigency”—do not apply to the controversy. The Professors assert that those provisions should have triggered a right to 15 months’ notice of their termination or, alternatively, 15 months’ of salary as severance, as provided for in the Handbook.

¶ 14 The section of the Handbook relating to termination also contains the following introductory language:

“Termination of a faculty member; whether tenured, tenure-track, non-tenure, or adjunct, *prior to the expiration of their term appointment can be for* *** [enumerated reasons].” (Emphasis added.)

¶ 15 The Professors allege that the following subsection of the Handbook addressing the first of the reasons for terminations applies regarding the elimination of academic programs:

“Termination of a faculty member; whether tenured, tenure-track, non-tenure, or adjunct, *prior to the end of the specific term*, may occur as a result of the elimination or reduction of an academic program of instruction.” (Emphasis added.)

¶ 16 The Professors also allege the subsection of the Handbook regarding the other basis for termination is relevant:

“Termination of a faculty member; whether tenured, tenure-track, non-tenure, or adjunct, *prior to the end of the specific term*, may occur as a result of Financial Exigency.” (Emphasis added.)

¶ 17 The financial exigency provisions state the following:

“The President of MacMurray College and the Board of Trustees shall make the determination that a state of financial exigency exists or is imminent.”

“If the President (having sought advice in consultation with the Business Affairs Committee) and the Board of Trustees decides that a condition of financial exigency exists or is imminent, *notice shall be given as deemed appropriate*.” (Emphasis added.)

Both of the foregoing subsections also provide that written notice of termination “shall be as follows: *** For tenured faculty at least 15 months, MacMurray College shall have the option of substituting equivalent severance salary and benefits for the 15 months.”

¶ 18 Before the trial court, the Professors alleged they had a contract with the College that the College breached based upon the above-quoted sections of the Appointment Document and Handbook. The parties agreed the controversy was ripe for summary judgment, and both parties filed motions for summary judgment. The court granted the College’s motion and denied the Professors’ motion, finding the Handbook did not address closure of the College.

¶ 19 The Professors appeal, and we affirm.

¶ 20 II. ANALYSIS

¶ 21 A. Standard of Review

¶ 22 This court reviews a trial court’s ruling granting summary judgment *de novo*. *West Bend Mutual Insurance Co. v. Krishna Schaumburg Tan, Inc.*, 2021 IL 125978.

¶ 23 B. The Handbook Does Not Guarantee Continued Employment

¶ 24 The Professors argue it is irrelevant that the Handbook does not address the College’s closure. We disagree.

¶ 25 The rules guiding us in construction of the terms of a contract are well settled. *Thompson v. Gordon*, 241 Ill. 2d 428, 441 (2011). We first look to the language of the agreement itself, construing it as a whole, and “viewing each provision in light of the other provisions.” *Id.* If the language is clear and unambiguous, we give the words “their plain, ordinary and popular meaning.” *Id.* We conclude that the language of the Handbook is clear and unambiguous.

¶ 26 As the parties acknowledge, the Handbook contains no explicit provisions that address the possibility the College would close. Further, the Handbook does not cover all policies or procedures. The Handbook’s Preface in the first paragraph provides that the Handbook is designed to provide “basic information” on “policies of particular interest to faculty.” The same paragraph is explicit that the Handbook “does not refer to all policies and procedures ***.”

¶ 27 The language as to tenured faculty is limited by use of the phraseology “generally assured continued reappointment.” The Handbook makes no representation that it is a comprehensive description of the operation of the College.

¶ 28 Like the Handbook’s initial language, the Handbook’s closing passage also states that the Handbook “contains important information” and directs faculty to consult the administration “regarding questions not answered.”

¶ 29 The plain language of the Handbook simply does not address closing of the College. This court will not interpret a contract “in a way that is contrary to the plain and obvious meaning of the language used.” *Thompson*, 241 Ill. 2d at 442. In *Thompson*, the supreme court declined to interpret “replacement” as “improvement” in a contract for road construction because the contract clearly used the terms differently. *Id.* Similarly, this court has previously rejected a party’s plea to read a lease “very generously” and interpret an assignment of the lease as a “claim” against the property. *Pappas v. Waldron*, 323 Ill. App. 3d 330, 339 (2001). We noted that (1) the language of the lease was unambiguous and (2) the meaning of those words could be determined from the language of the lease itself. *Id.* at 340. In *Waldron*, the drafter of the contract could easily have included a provision that an assignment triggered the option one party urged, but the drafter did not. *Id.*

¶ 30 Also, when a contract’s language is clear and unambiguous, we will not add terms to the contract to ostensibly make it more equitable. *Mid-West Energy Consultants, Inc. v. Covenant Home, Inc.*, 352 Ill. App. 3d 160, 165 (2004). Nonetheless, that is exactly what the Professors are asking us to do by “interpreting” the Handbook to address the College’s closure, even though the Handbook is unambiguous. We decline their request to do so.

¶ 31 We will not “interpret” the Handbook more generously than written. The trial court did not ignore the language of the Handbook but applied its plain language. Accordingly, the trial court did not err in refusing to extend the Handbook’s provisions to the closing of the College.

¶ 32 C. The Professors Were Not Entitled to More Notice or Severance

¶ 33 Despite the Handbook language earlier discussed, the Professors claim the provisions relating to separation from the College entitle them to 15 months’ notice or, in the alternative, severance equal to 15 months’ salary. We disagree because the Handbook unambiguously states that the benefits the Professors seek are available only if the professor’s employment was terminated *during* an employment term to which the College had appointed the professor. In this case, the terminations occurred *after* the conclusion of the Professors’ appointed terms.

¶ 34 The Professors direct our attention to several subsections of chapter 15.3 of the Handbook. The title of this chapter is “Separation from the College.”

¶ 35 Section 15.3 is divided into five subsections, preceded by some explanatory language. Each subsection relates to a specified basis for termination. The parties agree that the subsections covering termination for adequate cause, academic cause, and nonrenewal of appointment are not relevant.

¶ 36 The Professors posit one of the two remaining subsections must apply—namely, either termination due to the elimination of an academic program (15.3.4) or for “Financial Exigency” (15.3.5).

¶ 37 The introductory language to the subsection of Chapter 15 of the Handbook covering termination states that the College can terminate faculty members for the reasons

discussed above “prior to the expiration of their term appointment ***.” There is no provision for termination at any other time.

¶ 38 According to the Handbook, the College can terminate a member of its faculty should the College eliminate an academic program but only “prior to the end of the specific term ***”. Also, the subsection concerning termination due to financial exigency provides for termination “prior to the end of the specific term ***.” Neither of these subsections describe termination at times other than these.

¶ 39 Regarding the subject of notice, the latter provision states that “notice shall be given as deemed appropriate.” The Professors argue that when terminations occur based on the reasons set forth in either section 15.3.4 or section 15.3.5, they are entitled to the 15 months’ notice or severance equal to 15 months’ salary. We disagree.

¶ 40 According to their plain meaning, the termination provisions set forth in section 15.3.4 and section 15.3.5 apply only to terminations prior to the conclusion of any term to which a faculty member has been appointed by the College. The terms to which the College had appointed each Professor in this case concluded May 20, 2020, and the date of their terminations was May 26, 2020.

¶ 41 Without repeating the well-settled principles of contract interpretation discussed earlier, we simply note these principles similarly apply to the termination provisions. Like the general language of the Handbook, the termination provisions do not address closure of the College. Further, the Handbook does not provide severance pay, notice, or any other remedy to persons whose employment was terminated after the conclusion of their appointed term.

¶ 42 We conclude (1) the trial court properly determined that the Handbook is not ambiguous, (2) there are no remedies contained in the Handbook that apply to benefit the

Professors due to the College's concluding its operations, and (3) summary judgment for the College was appropriate.

¶ 43

III. CONCLUSION

¶ 44

For the reasons stated, we affirm the trial court's judgment.

¶ 45

Affirmed.