

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CIVIL ACTION

MICHAEL MORRESI,
Plaintiff

vs.

BOROUGH OF BEAVER MEADOWS,
Defendant

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No. 11-2640

Richardson Todd Eagen, Esquire
Robert T. Yurchak, Esquire

Counsel for Plaintiff
Counsel for Defendant

Matika, J. - August 2, 2012

MEMORANDUM OPINION

In this breach of contract case, the Borough of Beaver Meadows (hereinafter "Beaver Meadows") has filed Preliminary Objections to the Amended Complaint of the Plaintiff, Michael Morresi (hereinafter "Morresi"). In these objections, Beaver Meadows requests the Court to: 1) dismiss the Complaint on the basis that the Plaintiff has pled no remedy at law; 2) dismiss the Complaint due to legal insufficiencies in the manner in which Morresi averred damages; or 3) require the Plaintiff to file a more specific Complaint as to the nature and amounts of damages alleged. For the reasons stated herein, we **GRANT in part** and **DENY in part**.

FACTUAL HISTORY

On May 3, 2010, Morresi and Beaver Meadows entered into an employment contract in that Morresi would serve as the Borough's Police Chief and perform certain duties and responsibilities of Police Chief as outlined in the contract. Beaver Meadows was to provide Morresi with certain compensation and benefits in exchange for Morresi performing those duties and responsibilities of Police Chief. The Employment Contract or "Agreement", as it is labeled, identifies a definitive expiration date of the contract, that being December 31, 2010.¹ Morresi claims that since May 3, 2010, he has been performing his duties and responsibilities as Police Chief of Beaver Meadows, however, beginning in 2011, Morresi claims that Beaver Meadows reduced his hours of work and did not provide him with certain benefits as called for in the contract.² Morresi claims Beaver Meadows has breached this contract and as a result he is entitled to damages in excess of Fifty Thousand (\$50,000.00)

¹ In his Complaint, Morresi avers that "by operation of law, this Agreement continued in full force and effect into 2011 and beyond."

² Morresi sets forth in his Complaint that Beaver Meadows has never provided him with a pension plan, and that since January 1, 2011, Beaver Meadows has additionally failed to provide him with vision and dental insurance coverage, and reduced his weekly hours to forty (40) per week. Beginning January 1, 2012, Morresi claims he was also deprived of health insurance, vacation days, sick days, personal days, paid holidays, uniform and equipment allowance, expenses for professional training, a required two hour minimum pay for in-court time, and that he had his hours reduced even further to twenty-four (24) hours per week.

Dollars.³

Beaver Meadows has filed Preliminary Objections to this Amended Complaint asking the Court to dismiss the Amended Complaint, or in the alternative require Plaintiff to file a more specific complaint. In particular, Defendant alleges the Amended Complaint fails to set forth a remedy at law, is legally insufficient as to the damages, and is otherwise nonspecific enough on the amount of the damages.

LEGAL DISCUSSION

At the heart of this litigation is an Employment Contract between the Plaintiff, Michael Morresi, and the Defendant, Borough of Beaver Meadows. Morresi claims that Beaver Meadows breached this contract by not following through on its obligation to provide a number of benefits contained in the contract. Beaver Meadows, in the Preliminary Objections filed to the "Amended Complaint" argues that Morresi has failed to sufficiently set forth a legal basis for this claim, and further, that Morresi has failed to be specific with regard to his claim for damages. We are now called upon to determine whether Morresi has in fact identified a remedy at law in his Complaint, whether his pleading is legally sufficient, and

³ Nowhere in his Amended Complaint does Morresi provide specifics as to the amount of damages he claims he incurred or suffered due to the alleged breach of contract.

whether he has sufficiently identified the damages he claims to have suffered as a result of this alleged breach.

A Preliminary Objection in the nature of a demurrer tests the legal sufficiency of the Plaintiff's Complaint. *Smith v. Wagner*, 588 A.2d 1308 (Pa.Super. 1991). The Court must accept as true all well-pleaded allegations of material fact as well as all inferences reasonably deduced therefrom. *Youndt v. First National Bank of Port Allegany*, 868 A.2d 539 (Pa.Super. 2005). Preliminary Objections will only be sustained where the case is free from doubt. *Rambo v. Greene*, 906 A.2d 1232, 1235 (Pa.Super. 2006). Should there be doubt as to whether or not the demurrer should be sustained that doubt should be resolved against granting the demurrer. *R.W. v. Manzek*, 888 A.2d 740 (Pa. 2005).

In order to properly plead a cause of action for breach of contract, three elements are necessary: 1) the existence of a Contract, including all essential terms; 2) a breach of a duty imposed by the contract, and 3) resultant damages. *J.F. Walker Co. Inc. v. Excalibur Oil Group, Inc.*, 792 A.2d 1269, 1272 (Pa.Super. 2002), citing *Williams v. National Mutual Insurance Co.*, 750 A.2d 881, 884 (Pa.Super. 2000), quoting *Corestates Bank National Association v. Cutilla*, 723 A.2d 1053, 1058 (Pa.Super. 1999).

The first Preliminary Objection raised by Beaver Meadows is

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that the Complaint should be dismissed since Morresi has no remedy at law. This contention is erroneous. Should Morresi succeed on his breach of contract claims to any degree,⁴ his remedy at law is as pled: monetary damages for any item he did not receive. While the specific amount of damages is the subject of further discussion below, for purposes of this Preliminary Objection there is a remedy at law. Accordingly, this Preliminary Objection in the nature of a Petition to Dismiss will be denied.

The second issue raised in its Preliminary Objections is that of the legal insufficiency of the Complaint itself. The complaint is based upon a contract which contained a provision that the contract expires on December 31, 2010. Plaintiff, however, identifies in his Complaint a claim that sets forth a cause of action beyond that date based its continuation "by operation of law." Morresi attaches the Employment Agreement to his Amended Complaint which reads in relevant part:

"The term of this Agreement shall commence at 12:01 A.M. on May 3, 2010 and shall expire at 12:00 midnight on December 30, 2010."

As stated, Plaintiff argues in his Complaint that this Employment Contract continues by operation of law. However,

⁴ As pled for the year 2010, the allegation in the Complaint identifies a purported breach on the part of Beaver Meadows for failure to provide a pension plan for Morresi, a term or condition set forth in the contract itself. As to other breach of contract claims, they are discussed in further detail below.

Beaver Meadows objects to the nature of the averment regarding Morresi's alleged claims for damages in 2011 to the present. "Where the terms of a contract are clearly expressed, interpretation of those terms must be determined from the language itself." *Pennsylvania Department of Transportation v. E-Z Parks, Inc.*, 620 A.2d 712, (Pa. Commw. 1993) appeal denied, 627 A.2d 181 (Pa. 1993). According to the plain meaning of this language, the Employment Contract was for a finite period of time, namely, through the end of 2010. Because the language of this contract relating to its duration is unambiguous, based on the manner in which the Complaint is fashioned, the Complaint is legally insufficient in that it fails to state a cause of action for any damages beyond 2010. Without more regarding if and how the 2010 contract continued, the Complaint, as drafted cannot survive this challenge. At a minimum, the Motion for a More Specific Complaint should be granted. Accordingly, Plaintiff will be directed to file an Amended Complaint to further clarify the basis of its claim for the years 2011 and beyond.

The third and final argument raised by the Defendant is that dealing with the lack of specificity as to the nature and amount of damages. As for the year 2010, the partial calendar year covered by the written contract, Morresi claims the breach resulted from the failure of Beaver Meadows to provide him with "a pension plan subject to the provisions and benefits of Act

600, 53 P.S. §767 et seq." Clearly, if successful in eventually proving that Beaver Meadows failed to provide this pension plan, a breach has occurred, however, it would appear difficult, if not impossible, at the present time to quantify a damage for not receiving this contractual benefit, one which will not be received until well into the future. Accordingly we do not see how at this point Plaintiff can specify a monetary damage amount for this item.

As to the years 2011 and 2012, it appears premature to address and decide the specificity of the damages claimed by Morresi for these years until such time as he amends his complaint to provide a sufficient legal basis vis-à-vis the cause of action and damages for years 2011 and beyond.⁵

For the year 2010, however, Morresi has properly pled all three elements of a breach of contract action at this stage of the litigation. For the years 2011 and beyond he has not. Therefore, based on the foregoing, we enter the following Order:

⁵ It would appear that if Morresi does file an Amended Complaint as required herein, he would need to quantify the alleged 2011 and beyond damages in order to justify his claim "in excess of \$50,000.00" worth of damages.

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ORDER

AND NOW, this 2nd day of August, 2012, upon consideration of the Preliminary Objections of the Defendant, Borough of Beaver Meadows, and after careful consideration of Plaintiff's Answer thereto and the briefs lodged in support thereof, it is hereby **ORDERED** and **DECREED** as follows:

1. The Motion to Dismiss for failure to state a remedy at law is **DENIED**.
2. The Motion to Dismiss or Motion for More Specific Complaint based upon a Lack of Legal Sufficiency is **GRANTED** insofar as the Plaintiff, Michael Morresi, is required to file an Amended Complaint consistent with this Opinion within thirty (30) days from the date hereof; and
3. The Motion in the nature of a demurrer as to the lack of specificity for the damages claimed is **DENIED** without prejudice to refile it upon the filing of the Amended Complaint required in ¶2 above.

BY THE COURT:

Joseph J. Matika, Judge