

MISSOURI COURT OF APPEALS EASTERN DISTRICT

OPINION SUMMARY

DIVISION THREE

JAMES C. LAMBRICH, and)	No. ED103128
DEBRA LAMBRICH,)	
)	Appeal from the Circuit Court of
Appellants,)	St. Louis County
)	
vs.)	
)	
DWIGHT KAY et al.,)	Honorable Barbara Wallace
)	
Respondents.)	Filed: November 8, 2016
)	

James C. Lambrich (“Lambrich”) and his wife, Debra Lambrich, filed a petition against Cassens Transport Company (“Respondent”), alleging retaliatory discrimination against Lambrich after he filed workers’ compensation claims. Following a bench trial, the court entered judgment in favor of Respondent. Lambrich appeals, arguing the trial court erred in its rulings of several pre-trial motions, and its final judgment.

AFFIRMED.

DIVISION THREE HOLDS: We hold that: (1) the trial court did not err in granting summary judgment because Lambrich failed to demonstrate a genuine issue of material fact as to his claim of seniority; (2) the trial court did not err in striking the allegations in paragraphs 6(g)(1), 6(g)(6), 6(h)–(m) because they are barred by section 287.120.2, the exclusivity provision, of the Workers’ Compensation Law, and when the applicability of section 287.120.2 appears from the face of the petition, Respondent may file a motion to dismiss under Rule 55.27(a)(6); (3) the trial court did not err and its judgment was not against the weight of the evidence because it did not identify motives on the part of Respondent but rather drew reasonable inferences from the evidence presented at trial; (4) we cannot conclude the trial court erred or abused its discretion in denying Lambrich’s motions to compel because Lambrich failed to provide a transcript of the hearing on his motions, and, therefore, we presume that the transcript of the hearing supported the trial court’s order; and (5) the trial court did not err and its judgment was not against the weight of the evidence because Lambrich’s claims of retaliatory discrimination were barred by the exclusivity provision. Notwithstanding the exclusivity provision, Lambrich failed to establish Respondent discharged or discriminated against him.

Opinion by: Angela T. Quigless, P.J.

Robert G. Dowd, Jr., J, and Lisa Van Amburg, J., Concur.

Attorney for Appellant: Michael Blotevogel

Attorney for Respondent: Gerard T. Noce

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