

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

DAVID DWYER,

Appellant

v.

KANSAS CITY MISSOURI SCHOOL DISTRICT.

Respondent

DOCKET NUMBER WD76984

DATE: September 16, 2014

Appeal From:

Circuit Court of Jackson County, MO
The Honorable Patrick William Campbell, Judge

Appellate Judges:

Division Two
Victor C. Howard, P.J., James Edward Welsh, and Anthony Rex Gabbert, JJ.

Attorneys:

Martin Meyers, Kansas City, MO
Leonard Stephens, Kansas City, MO

Counsel for Appellant
Co-Counsel for Appellant

Attorneys:

Lynn Hursh, Kansas City, MO
Tyson Ketchum, Kansas City, MO
Shana Long, Kansas City, MO

Counsel for Respondent
Co-Counsel for Respondent
Co-Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**DAVID DWYER, Appellant, v.
KANSAS CITY MISSOURI SCHOOL DISTRICT, Respondent**

WD76984

Jackson County

Before Division Two Judges: Howard, P.J., Welsh, and Gabbert, JJ.

David Dwyer filed a lawsuit against the Kansas City Missouri School District for wrongful termination and age discrimination after being notified that his teaching position was being eliminated due to a "reduction in force." The circuit court found that there were no fact issues for the jury to decide on the wrongful termination claim and directed a verdict in favor of the District. The court submitted Dwyer's age discrimination claim to the jury, and the jury returned a verdict in favor of the District. Dwyer appeals the circuit court's grant of a directed verdict for the District on the wrongful termination claim and the jury's verdict in favor of the District on the age discrimination claim.

Affirmed.

Division Two holds:

The circuit court did not err in concluding that Dwyer's wrongful termination claim under the Teacher Tenure Act involved only questions of law and in granting a directed verdict for the District on those questions. The court correctly concluded that the Board properly authorized a reduction in force, that it had the ability to delegate that authority, and that the authority still existed at the time of Dwyer's reduction in force. The court also correctly concluded that no fact issue remained for the jury as to whether Dwyer was terminated or furloughed, in that the record clearly shows that Dwyer was "placed on a leave of absence," under section 168.124. Likewise, the court did not err in denying *Dwyer's* motion for directed verdict on this claim.

The circuit court did not err in granting the District's motion *in limine* preventing Dwyer from introducing the District's Early Retirement Incentive Plans to support his age discrimination claim. Dwyer does not demonstrate that the "very narrow" exception the general rule that "appellate courts will not review excluded evidence without a specific and definite offer of proof" is applicable to excuse his lack of an offer of proof in this case.

Opinion by James Edward Welsh, Judge

September 16, 2014

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