

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

PAMELA LITTLEFIELD,)	
)	
Plaintiff)	
)	
v.)	Civil No. 97-4-B
)	
TOWN OF WINTHROP,)	
)	
Defendant)	

***RECOMMENDED DECISION ON DEFENDANT’S
MOTION FOR SUMMARY JUDGMENT***

The defendant, the Town of Winthrop, has moved pursuant to Federal Rule of Civil Procedure 56(c) for a summary judgment on all counts of the plaintiff, Pamela Littlefield’s, complaint in the above-captioned matter. Littlefield, a former employee of the Town, alleges that the Town: breached the implied covenant of good faith and fair dealing contained in her employment contract (Count I); has been unjustly enriched by her services (Count II); is liable to her under a theory of *quantum meruit* (Count III); violated the Fair Labor Standards Act, 29 U.S.C. §§ 201 - 219 (1985 & Supp. 1997) (FLSA) (Count IV); and violated its statutory duty to pay her all compensation due within a reasonable time of her demand for payment (Count V). Concluding that no genuine issues exist with respect to any material fact, the Court recommends that the Town’s motion for a summary judgment on all of the above counts be granted.

I. Summary Judgment

A summary judgment is appropriate only “if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Fed. R. Civ. P. 56(c). An issue is genuine, for these purposes, if “the evidence is

such that a reasonable jury could return a verdict for the nonmoving party.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). “A material fact is one which has the ‘potential to affect the outcome of the suit under applicable law.’” *FDIC v. Anchor Properties*, 13 F.3d 27, 30 (1st Cir. 1994) (quoting *Nereida-Gonzalez v. Tirado-Delgado*, 990 F.2d 701, 703 (1st Cir. 1993)). The Court views the record in the light most favorable to the nonmovant. *McCarthy v. Northwest Airlines, Inc.*, 56 F.3d 313, 315 (1st Cir. 1995).

II. Background

This matter arises out of Littlefield’s termination from employment with the Town on March 3, 1994. She claims that the Town failed to compensate her for the overtime hours she worked in her capacity as deputy chief of the Town’s ambulance service. The Town claims that because Littlefield was employed in a salaried executive capacity pursuant to an employment agreement, she is not entitled to any additional compensation.

Littlefield was hired by the Town to serve as deputy chief of its ambulance service on August 27, 1993. In accepting the position, she signed a memorandum of agreement that stated she was to be employed as a salaried employee subject to the terms and conditions set forth in the Town’s personnel policy. Some of Littlefield’s duties as deputy chief of the Winthrop ambulance service, as specified in a job description given to her by the Town, included: maintaining discipline and morale within the emergency medical services department; performing the duties of an emergency medical technician (EMT) as required; preparing reports and correspondence related to the billing of services rendered by the emergency medical service; organizing and assigning duties in the department; preparing yearly performance evaluations of all subordinate employees; delegating authority to subordinates; organizing and directing

departmental training and meetings; submitting written reports and recommendations to the chief in cases of disciplinary infractions by members of the department; assisting the chief in investigating and processing employee grievances; and assisting the chief in preparing and administering the department's budget.

The Town contends, and Littlefield does not directly dispute, that prior to accepting her position, Littlefield discussed her compensation package with the chief of the ambulance service, Joseph E. Young, Sr. Young claims that he told Littlefield that, as deputy chief, she would not be paid for overtime work but that, pursuant to the personnel policy, she would accrue one hour of compensatory time, or "comp time," for each hour of overtime she worked. Young also claims that she was informed by him that she would not be able to "cash in" her accrued compensatory time off for additional compensation. Littlefield does not dispute Young's characterization of this conversation. She notes, however, that she never was informed that she would lose the comp time she earned that she did not claim prior to her termination.

Because her supervisor also served as the Town's chief of police, Littlefield received little direct supervision of her job duties and essentially conducted the day-to-day management of the ambulance service. She supervised and directed the work of approximately thirty employees, and had the authority to hire, fire, promote, and otherwise discipline the employees, subject to final approval by the chief. Although Littlefield principally exercised supervisory authority over the department's other employees, she also served from time to time as a paramedic, responding when necessary to ambulance calls. Of the 1,072 hours she worked as deputy chief, however, only 49.5 hours were spent by Littlefield serving as an EMT.

It is the Town's policy to pay all employees subject to the overtime provisions of the FLSA on an hourly basis, and to pay all those exempt from the provisions on a salary basis. During the period that Littlefield served as deputy chief, she was paid a weekly salary of approximately \$413.00. This arrangement was pursuant to the memorandum of agreement entered into between Littlefield and the Town on August 27, 1993. The agreement specifically references the Town's written personnel policy, which states that Littlefield was not entitled to overtime pay for time worked in excess of forty hours per week because she was a salaried employee. Pursuant to its personnel policy, the Town allowed Littlefield to take compensatory time off from work whenever she worked in excess of forty hours per week. The Town insists that it has never been its practice to provide payment in lieu of such "comp time" to those employees exempt from the overtime provisions of the FLSA.

On March 3, 1994, Littlefield's employment with the Town was terminated. The Town claims that, at that time, she was paid all amounts of money owed her. In a letter subsequently sent by Littlefield to the Town, however, she claimed that the Town had failed to pay her for 142.5 hours of overtime work she had accrued. After the Town refused her request for compensation, Littlefield initiated the current suit. Littlefield claims that she conferred a benefit to the Town for which she deserves compensation. She points out that there is nothing in the Town's written personnel policy that addresses how compensatory time is to be paid for a terminated employee, nor is there anything addressing what compensatory time is or how it is to be taken in the event an employee is terminated.¹

¹ The Town's personnel policy states that "[n]o employee shall be allowed to accumulate unreasonable amounts of compensatory time for purposes of taking excessive time off without explicit written approval of the Town Manager."

III. Discussion

A. *Whether the Town is entitled to a summary judgment on Littlefield's claim for breach of an implied covenant of good faith and fair dealing*

The Town contends that it is entitled to a summary judgment on the first count of Littlefield's complaint, the claim for breach of an implied covenant of good faith and fair dealing. Although she does not claim that the Town breached any express contractual obligation it owed her, Littlefield avers that she is owed some form of compensation for the overtime hours she worked prior to being fired. The Town contends that, under Maine law, an implied covenant of good faith and fair dealing may not be read into an employment contract such as Littlefield's, and that, in any event, Littlefield has failed to present any evidence that the Town treated her unfairly or that it acted in bad faith.

The Court initially finds as a matter of law that an express contract for employment between Littlefield and the Town existed in this case. Although Littlefield states in her complaint that she was employed pursuant to a contract, she now appears to challenge such a finding in her response to the Town's motion. The Court is satisfied by her prior admission, however, as well as by the undisputed evidence contained in the memorandum of agreement, the job description, and the personnel policy that governed the parties' relationship in this matter, that an express contract existed between the Town and Littlefield.

In Maine, an employment contract of indefinite duration may be terminated at will by either party. *Broussard v. CACI, Inc.-Federal*, 780 F.2d 162, 163 (1st Cir. 1986) (applying Maine law); *Bard v. Bath Iron Works Corp.*, 590 A.2d 152, 155 (Me. 1991). One exception to this rule is "that parties to an employment contract of indefinite duration 'may enter into an

employment contract terminable only pursuant to its express terms--as 'for cause'--by clearly stating their intention to do so.” *Bard*, 590 A.2d at 155 (quoting *Larrabee v. Penobscot Frozen Foods, Inc.*, 486 A.2d 97, 99-100 (Me. 1984)). There appears to be no evidence of such a provision in the contract at issue, however, and neither party claims that this exception applies to the instant case.

A review of Littlefield’s job description, the memorandum of agreement entered into between her and the Town, as well as the Town’s personnel policy, discloses that Littlefield was employed by the Town for an indefinite period as deputy chief. Maine’s Law Court has “consistently refused to recognize implied promises in employment contracts of indefinite duration.” *Struck v. Hackett*, 668 A.2d 411, 420 (Me. 1995) (quoting *Bard*, 590 A.2d at 156 (citations omitted)). In light of the above evidence, and in view of this standard, the Court concludes that no equitable relief may be awarded Littlefield, and therefore recommends that a summary judgment be entered in favor of the Town on Count I of the complaint.

B. Whether the Town is entitled to summary judgments on Littlefield’s claims based on unjust enrichment and quantum meruit

In Counts II and III of her complaint, Littlefield claims that she conferred a benefit on the Town by working hours in excess of a forty-hour work week, and that the Town has been unjustly enriched as a result. Littlefield claims that because it is a question of fact whether a true contract may be said to have existed between her and the Town, she may recover under these two equitable theories because the Town has a legal and moral duty to pay her. The Town contends that it is entitled to a summary judgment on each of these counts because a contract did in fact exist between it and Littlefield, and because she received all the compensation that was owed her.

“[U]njust enrichment describes recovery for the value of the benefit retained when there is no contractual relationship, but when, on the grounds of fairness and justice, the law compels performance of a legal and moral duty to pay.” *Top of the Track Associates v. Lewiston Raceways, Inc.*, 654 A.2d 1293, 1296 (Me. 1995) (quoting *A.F.A.B., Inc. v. Town of Old Orchard Beach*, 639 A.2d 103, 105 n.3 (Me. 1994)). A theory of unjust enrichment applies only in the absence of any quasi-contractual relationship. *Danforth v. Ruotolo*, 650 A.2d 1334, 1335 n.2 (Me. 1994). Because the Court concludes, as noted above, that a contract in fact existed between the parties, Littlefield’s unjust enrichment claim may be dismissed as being without merit. Littlefield may not recover through any equitable theory that which she cannot recover through the express terms of her employment contract with the Town. Accordingly, her claim regarding unjust enrichment cannot withstand the Town’s motion for a summary judgment because such a theory is inapplicable in a contract setting. The Court therefore recommends that a summary judgment be entered in the Town’s favor on Count II of Littlefield’s complaint.

With respect to the doctrine of *quantum meruit*, the Law Court has stated:

It is a settled principle of contract law that when one renders services to another at the request, or with the knowledge and consent, of the other, and the surrounding circumstances make it reasonable for him to believe that he will receive payment therefor from the other, and he does so believe, a promise to pay will be inferred .

...
Id. at 1335 (quoting *Bourisk v. Amalfitano*, 379 A.2d 149, 151 (Me. 1977) (citations omitted).

Such an equitable remedy typically is available in cases when the recovery of services or materials provided under an implied contract is sought. *See Aladdin Elec. Assoc. v. Town of Old Orchard Beach*, 645 A.2d 1142, 1145 (Me. 1994). Under this theory, a claimant is required to prove that she rendered services to a party at the party’s request or with its knowledge and

consent, and that the circumstances in which she rendered the services made it reasonable for her to expect that she would receive compensation. *Danforth*, 650 A.2d at 1336. The Court concludes that such a remedy is unavailable in the instant case in view of its prior determination that an express contract, and not an implied contract, governed the parties' relations.

The interpretation of unambiguous terms of a contract is a question of law for the Court's determination. *Top of the Track Associates*, 654 A.2d at 1296 (citation omitted). The memorandum of agreement, the personnel policy, and the job description governing Littlefield's employment with the Town reflect that she was employed as a salaried employee for an indefinite period of time. The terms of the contract reveal that, at the time of her termination, Littlefield could not have had any reasonable expectation that she was entitled to additional compensation for the overtime work she performed prior to her termination. Thus, like her unjust enrichment claim, Littlefield's equitable claim based on *quantum meruit* is inapplicable to the instant case. Littlefield received what she bargained for, and the agreement she entered into with the Town precludes further recovery. Accordingly, the Court recommends that a summary judgment be entered in the Town's favor on Count III of Littlefield's complaint, as well.

C. Whether the Town is entitled to a summary judgment on Littlefield's claim pursuant to the Fair Labor Standards Act

In Count IV of her complaint, Littlefield alleges that the Town's failure to compensate her for overtime work violated the FLSA. The Town contends that the claim is barred by the applicable statute of limitations or, in the alternative, that it is entitled to a summary judgment on this count because Littlefield was employed in an executive capacity and, thus, was exempt from the Act's overtime provisions.

The FLSA incorporates the limitations period set forth in the Portal-to-Portal Act of 1947, 29 U.S.C. § 255 (1985), which is two years unless the alleged illegal conduct was “willful,” in which case the period is three years. *McLaughlin v. Richland Shoe Co.*, 486 U.S. 128, 129 (1988). To make out a claim for a willful violation, a plaintiff must prove that the employer either knew or showed reckless disregard as to whether its conduct was prohibited by the statute. *Id.*

In the case at bar, Littlefield’s cause of action pursuant to the FLSA accrued on or about March 3, 1994, the date on which she was terminated from the Town’s employment. *See Knight v. Columbus, Ga.*, 19 F.3d 579, 581 (11th Cir. 1994) (cause of action accrues on the payday following the work period for which the entitlement to overtime pay is claimed). Thus, the applicable statute of limitations in this case began to run on or about March 3, 1994, and expired on March 3, 1996, a full nine months prior to Littlefield’s filing suit. Littlefield offers no evidence to support her allegation that the Town’s violation of the FLSA was willful. Littlefield did not assert her claim until December 5, 1996, when she filed suit in the Kennebec County Superior Court.² Accordingly, Littlefield’s claim pursuant to the FLSA is barred by the Act’s statute of limitations. The Court thus recommends that a summary judgment in favor of the Town be granted on this count of Littlefield’s complaint, as well.

² The Court is unpersuaded by Littlefield’s contention, unsupported by any authority, that either November 20, 1995, the date she filed suit in the Maine District Court, or January 1, 1995, the date on which she was denied compensation by the Town, should apply as the starting point for commencement of the statute of limitations in this case. The Court is satisfied, based on its review of the record, that a proper claim pursuant to the Fair Labor Standards Act, 29 U.S.C. §§ 201 - 219 (1985 & Supp. 1997), was not articulated by Littlefield until December 5, 1996, when she filed suit in the Maine Superior Court.

D. Whether the Town is entitled to a summary judgment on Littlefield's claim pursuant to 26 M.R.S.A. §§ 626, 626-A

In the final count of her complaint, Littlefield alleges that she is entitled to relief pursuant to Maine's wage payment statute, 26 M.R.S.A. § 626 (Supp. 1996).³ The statute essentially provides that an employee leaving her employment must be paid in full within a reasonable time after her demand. A companion statute, 26 M.R.S.A. § 626-A (Supp. 1996), provides certain penalties for an employer who violates section 626 or other similar statutes. The Town contends that a summary judgment should be granted in its favor on this count because it paid Littlefield all the compensation due her upon her termination.

The Court agrees with the Town's contention that, pursuant to its contract with Littlefield, it paid her all the compensation she was owed. As discussed above, the Court concludes that there is no genuine issue as to whether Littlefield is owed any additional compensation for her unused comp time. Littlefield does not adequately counter the evidence of the express provisions of her contract with the Town to withstand the Town's motion on this count. Nor does she dispute the Town's contention that, upon her termination, she promptly was paid all the salary due her. The record discloses that what Littlefield now seeks would be above and beyond what her contract of employment provided for. Accordingly, the Court recommends that a summary judgment in favor of the Town be granted on this count, as well.

³ 26 M.R.S.A. § 626 (Supp. 1996) provides in relevant part:

An employee leaving employment must be paid in full within a reasonable time after demand at the office of the employer where payrolls are kept and wages are paid,

IV. Conclusion

For the foregoing reasons, the Court recommends that a summary judgment in the defendant's favor be **GRANTED** on all counts of the plaintiff's complaint.

NOTICE

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) (1988) for which *de novo* review by the district court is sought, together with a supporting memorandum, within ten (10) days of being served with a copy thereof. A responsive memorandum shall be filed within ten (10) days after the filing of the objection.

Failure to file a timely objection shall constitute a waiver of the right to *de novo* review by the district court and to appeal the district court's order.

Eugene W. Beaulieu
United States Magistrate Judge

Dated this 29th day of August, 1997.