

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX

DEAN CAMACHO,	)	
	)	
Plaintiff,	)	CIVIL NO. SX-09-CV-230
v.	)	
	)	ACTION FOR BREACH OF CONTRACT
DELIVER IT, INC. and LEONARD MATTHEW,	)	
	)	JURY TRIAL DEMANDED
Defendants.	)	
_____	)	

APPEARANCES:

EZART A. WYNTER, SR., ESQ.
Law Offices of Ezart A. Wynter, Sr., P.C.
Frederiksted, St. Croix, VI
Attorney for Plaintiff

MICHAEL J. SANFORD, ESQ.
Sanford Amerling & Associates
Christiansted, St. Croix, VI
Attorney for Defendant Matthew Leonard

MEMORANDUM OPINION

MOLLOY, Judge.

THIS MATTER comes before the Court on Defendant Matthew Leonard's Motion for Summary Judgment filed on December 5, 2011. Plaintiff, Dean Camacho ("Camacho"), did not file a response. For the reasons stated below, the Court will grant Defendant Matthew Leonard's motion for summary judgment and enter judgment in his favor.

I. FACTUAL AND PROCEDURAL BACKGROUND

On July 1, 2008, Defendant Matthew Leonard (hereinafter "Matthew")¹ interviewed Camacho to work at Deliver It, Inc., a company that provides shipping services. On July 2, 2008, Matthew notified Camacho that he was hired for the position, and Camacho began work on July 7, 2008. Matthew worked as Camacho's supervisor for the duration of his

¹ Plaintiff's filings refer to Matthew Leonard by the incorrect name of Leonard Matthew(s). For the purposes of consistency with these filings, this Memorandum Opinion will refer to Defendant as "Matthew."

employment at Deliver It, Inc. Camacho's position at Deliver It, Inc. comprised clearing packages for U.S. customs, reviewing U.S. customs forms for packages, making deliveries to customers, and performing various tasks in the Deliver It, Inc. warehouse. Due to his refusal to work on Sundays,² Deliver It, Inc. terminated Camacho on October 1, 2008.

On May 4, 2009, Camacho filed a complaint alleging violations of the Wrongful Discharge Act, 24 V.I.C. § 76, et seq., and the Whistleblower Protection Act, 10 V.I.C. § 121, et seq., against Defendants. Matthew filed a motion to dismiss on August 18, 2009, alleging that the Wrongful Discharge Act did not apply as Camacho was not employed for six months by Defendant Deliver It, Inc. and thus did not qualify as an employee under the Act, and that Camacho failed to file his complaint within 90 days of the alleged retaliation as required by the Whistleblower Protection Act. On April 12, 2010, the Court granted Matthew's motion to dismiss but also allowed Camacho leave to amend his complaint to add a breach of contract claim. Camacho filed an amended verified complaint on June 9, 2010, asserting only an action for breach of contract.

Matthew filed a motion for summary judgment on December 5, 2011, arguing that: 1) Matthew is entitled to summary judgment on the breach of contract claim as he is not a party to the employment contract, and 2) Camacho's employment contract with Deliver It, Inc., was "at will," and therefore he could be terminated for any reason at any time. The Court agrees with Matthew's first argument, and accordingly, will not address the second.

² The parties dispute whether Sunday was a scheduled work day. Am. Verified Compl. ¶ 26; Answer to Am. Verified Compl. ¶ 27.

II. LEGAL STANDARD

Federal Rule of Civil Procedure 56, applicable through Rule 7 of the Superior Court, governs motions for summary judgment in the Virgin Islands. *Burd v. Antilles Yachting Services, Inc.*, 57 V.I. 354, 360 n.2 (V.I. 2012). “Generally, summary judgment should be granted after an adequate period for discovery has passed if the record reflects that: (1) there are no genuine issues, (2) as to any material fact, and (3) the moving party is entitled to judgment as a matter of law.” *Walters v. Walters*, 60 V.I. 768, 794 (V.I. 2014). “Facts that could alter the outcome are ‘material facts’ and disputes are ‘genuine’ if evidence exists from which a rational person could conclude that the position of the person with the burden of proof on the disputed issue is correct.” *Clark v. Modern Group, Ltd.*, 9 F.3d 321, 326 (3d Cir. 1993). The moving party must support the motion by “identify[ing] those portions of the record that demonstrate the absence of a genuine issue of material fact.” *Chapman v. Cornwall*, 58 V.I. 431, 436 (V.I. 2013). If the moving party does so, “the burden shifts to the non-moving party to present ‘affirmative evidence’ from which a jury might reasonably return a verdict in his favor.” *Id.*

In considering whether there are any disputed issues of material fact, the Court must draw all reasonable inferences from the evidence on record in the light most favorable to the non-moving party. *Walters*, 60 V.I. 768 at 794. All allegations of the non-moving party supported by proper proofs must be accepted by the Court as true for the purposes of deciding the motion. *Chapman*, 58 V.I. at 436. The Court’s role in deciding a motion for summary judgment is not to determine truth, but rather to determine whether a factual dispute exists that warrants trial on the merits. *Williams v. United Corp.*, 50 V.I. 191, 195 (V.I.

2008). Where such a factual dispute exists, the Court must deny summary judgment. *Sealey-Christian v. Sunny Isle Shopping Center*, 52 V.I. 410, 423 (V.I. 2009).

III. DISCUSSION

In his Amended Verified Complaint, Camacho alleges that Matthew committed a breach of contract when, "Plaintiff and Defendant entered into a contract of employment . . . for an indefinite period," and "Defendant Matthew (sic), acting as agent for Deliver It, Inc., terminated Plaintiff for Plaintiff's refusal in (sic) endorse or indulge the practice of falsifying customs forms." ¶¶ 39, 45. Matthew's motion for summary judgment states that "Plaintiff's contract of employment was with Deliver It, Inc., and not with Matthew Leonard," and further that, "[l]ike Plaintiff, Matthew Leonard was an employee of Deliver It, Inc.," and "[a]s Matthew Leonard was not a party to Plaintiff's employment contract, he may not be held liable for its breach." *Id.* at 5. Accordingly, at issue is whether Matthew, as Camacho's supervisor, may be held liable for breach of his employment contract.

To state a claim for a breach of contract under Virgin Islands law, a plaintiff must establish: "(1) the existence of a contract between the parties; (2) that the defendant breached a material duty imposed by that contract; and (3) that damages resulted from the breach." *George v. Virgin Islands Lottery Comm'n*, 54 V.I. 533, 539 (V.I. 2010); *Creative Minds, LLC v. Reef Broad., Inc.*, 2014 V.I. LEXIS 81, 4 (V.I. Super. Sept. 24, 2014).³ A breach

³ In *Creative Minds*, the Superior Court (Division of St. Thomas and St. John) held that the Supreme Court's application of RESTATEMENTS (SECOND) OF CONTRACTS § 235, the elements set forth in *Arlington Funding*, and portions of the Restatement clarifying or expanding upon these elements, are the appropriate common law rule regarding the basic elements of a breach of contract claim, and accordingly, a *Banks* analysis is not necessary to determine these elements. 2014 V.I. LEXIS 81, 4, n.21, referring to *Banks v. International Rental & Leasing Corp.*, 55 V.I. 967, 977-978 (V.I. 2011), and *Arlington Funding Services, Inc. v. Geigel*, 51 V.I. 118 (V.I. 2009).

of contract arises “when a party does not perform a duty imposed by a contract[.]” *Creative Minds*, 2014 V.I. LEXIS 81, 5, quoting *Danielson v. Innovative Communications, Corp.*, 49 V.I. 1071, 1082 (D.V.I. 2008).

Matthew’s motion for summary judgment demonstrates through evidence in the record that Camacho has not met the first, crucial element of a claim for breach of contract – the existence of a contract between the parties. Matthew contends, and the Court agrees, that Matthew was not a party to Camacho’s employment contract; rather, he was a fellow employee of Deliver It, Inc., who simply worked as Camacho’s supervisor. Def.’s Mot. Summ. J. at 4-5, citing Am. Verified Compl. ¶ 3; Aff. of Matthew Leonard ¶ 2 (Dec. 5, 2011); Camacho Dep. 1:19, Aug. 15, 2011. Accordingly, he cannot be held liable for breach of a contract to which he was not a party.

Camacho’s Amended Verified Complaint, however, asserts that Matthew was acting as an agent for Deliver It, Inc. at ¶ 45. Generally, only a party to a contract can commit a breach, but “an agent may be personally liable in contract when he acts on behalf of an undisclosed principal or exceeds the scope of his authority.” *Francis v. Miller*, 26 V.I. 184, 186 (V.I. Terr. 1991); see also, *Gallivan v. Power Save VI*, 2011 V.I. LEXIS 30 (V.I. Super. Apr. 28, 2011). This principle, however, does not apply to the case at bar. Firstly, assuming arguendo that Matthew were to be considered an “agent” of Deliver It, Inc., agency liability only applies when the principal is undisclosed. Secondly, as the record demonstrates, Camacho was aware that Matthew did not possess an ownership interest in Deliver It, Inc., but was a fellow employee. Camacho Dep. 1:19-20, Aug. 15, 2011. A supervisor cannot be liable for breach of contract when a plaintiff employee does not have a contractual relationship with the

supervisor, but only with the defendant employer. *See Nicholas v. Pennsylvania State Univ.*, 227 F.3d 133, 145 (3d Cir. 2000). This principle soundly comports with the broader principle in contract law that a contract may only be binding upon parties who manifest mutual assent to its terms. *Terrace v. Williams*, 52 V.I. 225, 241 (V.I. 2009). Accordingly, as Matthew was not a party to Camacho's employment contract, he cannot be held liable for a purported breach.

IV. CONCLUSION

Matthew has demonstrated through the record that that there is no genuine issue as to the material fact that he was not a party to Camacho's employment contract. Because Camacho failed to demonstrate that a genuine issue of fact exists as to this this key element of a breach of contract claim, Matthew is entitled to judgment as a matter of law. An appropriate Judgment follows.

Dated: April 8, 2015

ATTEST:

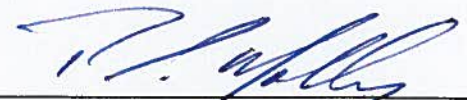
ESTRELLA GEORGE

Acting Clerk of the Court

By: 

Court Clerk Supervisor

Dated: 4/8/15



ROBERT A. MOLLOY

Judge of the Superior Court

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Defendants.	)	
_____	)	

JUDGMENT

THIS MATTER came before the Court on Defendant Leonard Matthew's¹ Motion for Summary Judgment filed on December 5, 2011. For the reasons stated in the accompanying Memorandum Opinion dated April 8, 2015, it is hereby:

ORDERED, ADJUDGED, AND DECREED that Defendant Leonard Matthew's Motion for Summary Judgment filed on December 5, 2011 is **GRANTED**; it is further

ORDERED, ADJUDGED, AND DECREED that the Court finds in favor of Defendant Leonard Matthew and against Plaintiff Dean Camacho; it is further

ORDERED that copies of this Order and the accompanying Memorandum Opinion shall be provided to Attorney Eszart A. Wynter, Sr. and Attorney Michael J. Sanford.

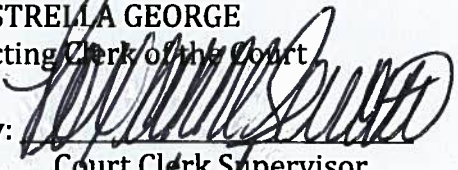
DONE AND SO ORDERED.

Dated: April 8, 2015



ROBERT A. MOLLOY
Judge of the Superior Court

ATTEST:
ESTRELLA GEORGE
Acting Clerk of the Court

By: 
Court Clerk Supervisor

Dated: 4/8/15

¹ The complaint refers to the defendant as Leonard Matthew(s), but his name is actually Matthew Leonard.