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**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-0484**

Leon E. Beam,
Appellant,

vs.

Michael Stamer individually and d/b/a Michael Stamer Farms,
Respondent.

**Filed February 5, 2008
Affirmed in part, reversed in part, and remanded
Muehlberg, Judge***

Kandiyohi County District Court
File No. 34-C9-04-001139

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Considered and decided by Ross, Presiding Judge; Toussaint, Chief Judge; and
Muehlberg, Judge.

UNPUBLISHED OPINION

MUEHLBERG, Judge

This action arises out of a claim for unpaid mileage reimbursement and interest
owed in a loan arrangement between employer and employee. Appellant challenges the

* Retired judge of the district court, serving as judge of the Minnesota Court of Appeals
by appointment pursuant to Minn. Const. art. VI, § 10.

district court order that granted partial recovery and barred other claims under a two-year statute of limitations for wage claims. Appellant also challenges the district court's denial of his motion for attorney fees. Because appellant brought his motion for attorney fees under an inapplicable statute, the district court did not abuse its discretion in denying the motion. Because appellant's claim arose out of a loan agreement, not a wage agreement, his claim is subject to the six-year statute of limitations under Minn. Stat. § 541.05, subd. 1(1) (2006). We therefore affirm in part, reverse in part, and remand.

FACTS

Appellant Leon Beam was employed by respondent Michael Stamer as a farmhand from approximately 1994 through 2004. Beam was paid an hourly wage, and the parties also agreed that Stamer would reimburse Beam for mileage at a flat rate of 29 cents per mile and 59 miles per day because Beam drove his own pickup rather than an employer-provided pickup. The employment agreement also included health insurance and paid vacation time.

Although Beam regularly received pay for hours worked, his paychecks did not include mileage reimbursement. In February 2000, Stamer prepared and signed a statement entitled "Monies due Leon Beam as of February 7, 2000" that reflected amounts due to Beam. The statement included a past-due balance from 1998, unused vacation pay for 1998 and 1999, mileage reimbursements for 1998 and 1999, and nine percent interest on amounts from 1998, 1999, and 2000. Stamer listed the total due at that time as \$18,475.06.

On May 15, 2001, Stamer prepared an updated summary of monies due reflecting amounts due to Beam, which included the amount due from the February 2000 statement, nine percent interest on the past-due balance, and mileage reimbursements for 2000, totalling \$24,607. Stamer and Beam signed the statement. Stamer explained that he unilaterally included nine percent interest in his statements because he felt he should compensate Beam for not immediately paying him mileage. Stamer chose the rate of nine percent because it was comparable to the interest rate charged by his bank. He admitted that he and Beam never discussed interest. The summary did not include a deadline for payment or dates for payments.

On May 28, 2001, Stamer included a letter with Beam's paycheck indicating that he would no longer pay Beam's mileage. Beam did not ask him about the letter or discuss the change of terms, and he denied receiving the letter. The district court found that there was insufficient evidence that Beam received the notice and acquiesced to the change of the employment term.

Stamer never paid Beam for mileage and admitted that he did not do so because "[Beam] said he didn't need the money" and Stamer did. After Beam was discharged from employment in 2004, he filed a complaint demanding payment in full of his salary, mileage, and interest pursuant to Minn. Stat. § 181.13 (2006), which requires an employer to immediately pay a discharged employee's earned and unpaid wages upon demand of the employee.

Following a trial in May 2005, the district court found that the "mileage/loan back" arrangement was a "term of employment," relying in part on Beam's testimony

that the mileage/loan back arrangement was part of his employment agreement, and applied a two-year statute of limitations to Beam's claim. Beam disputes whether he testified to this fact, but the transcript indicates that he answered affirmatively when Stamer's attorney asked Beam if mileage and other employment terms "all came as one package." The district court limited his claim for mileage reimbursement to the two years prior to service of the complaint on March 23, 2004, and judgment was entered accordingly. Beam appealed to this court, but we dismissed the appeal because Beam's issue of attorney fees had not been addressed. Beam then brought posttrial motions for attorney fees and costs, an order permitting amendment of the complaint, and an order amending the conclusions of law. The district court denied Beam's motions, finding no evidence in the trial record to support the motion for attorney fees, and entered final judgment. Beam now appeals.

D E C I S I O N

I.

Beam argues that the six-year statute of limitations under Minn. Stat. § 541.05, subd. 1(1) (2006), applies to his claim rather than the two-year statute of limitations under Minn. Stat. § 541.07(5) (2006), which was applied by the district court. The construction and applicability of a statute of limitations is a question of law, reviewed de novo. *Benigni v. County of St. Louis*, 585 N.W.2d 51, 54 (Minn. 1998). The six-year statute of limitations applies in actions "upon a contract or other obligation, express or implied, as to which no other limitation is expressly prescribed." Minn. Stat. § 541.05, subd. 1(1). One expressly prescribed limitation is the two-year limitation on claims "for

the recovery of wages or overtime or damages, fees, or penalties accruing under any federal or state law respecting the payment of wages or overtime or damages, fees, or penalties.” Minn. Stat. § 541.07(5).

The district court specifically found that the arrangement between Stamer and Beam was a loan: “Beam and Stamer agreed that Stamer would not pay Beam in cash for the mileage but consider the mileage owed as a loan back to Stamer which would accrue interest at the rate of 9%.” Despite finding that the arrangement was a loan, the district court then determined that the loan, as part of the employment agreement, was subject to the two-year statute of limitations. It is, however, immaterial whether the loan between Stamer and Beam was part of the employment agreement. Because the “mileage/loan back” arrangement between Beam and Stamer was not a claim for wages or any other type of claim covered by Minn. Stat. § 541.05, subd. 1(1), the district court erred in applying the two-year statute of limitations.

“Wages” is defined as “all remuneration for services or employment, including commissions and bonuses and the cash value of all remuneration in any medium other than cash, where the relationship of master and servant exists.” Minn. Stat. § 541.07(5). Words and phrases should be construed according to their common and approved usage. Minn. Stat. § 645.08(1) (2006). The common and approved usage of “to reimburse” reflects the distinction between “reimbursement” and “wages.” *See, e.g., The American Heritage Dictionary* 1471 (Houghton Mifflin Co. 4th ed. 2000) (“To repay (money spent); refund . . . To pay back or compensate (another party) for money spent or losses

incurred.”). Reimbursement is provided to *replace money spent or losses incurred*, whereas wages are provided as compensation *for services*.

The two-year statute of limitations in section 541.07(5) has been applied to employee claims for recovery of stock certificates, unpaid commissions, contractual wage claims, and accrued but unpaid vacation pay. *Medtronic v. Shope*, 135 F. Supp. 2d 988, 990 (D. Minn. 2001) (recovery of stock certificates); *Levin v. C.O.M.B. Co.*, 441 N.W.2d 801, 804 (Minn. 1989) (unpaid commissions); *Worwa v. Soz Enters.*, 307 Minn. 490, 492-93, 238 N.W.2d 628, 631 (1976) (contractual wage claims); *Roderick v. Lull Eng'g Co.*, 296 Minn. 385, 387-88, 208 N.W.2d 761, 762-63 (1973) (commissions); *Kohout v. Shakopee Foundry Co.*, 281 Minn. 401, 402-04, 162 N.W.2d 237, 238-39 (1968) (accrued but unpaid vacation pay). These claims are all consistent with the definition of compensation for services or employment, so it is not surprising that Minnesota courts have held that the claims are within the “broad definition of wages stated in [§ 541.07(5)].” *Roderick*, 296 Minn. at 388, 208 N.W.2d at 763. Mileage reimbursement is not included in the definition of “wages” and Beam’s claim therefore is not subject to the two-year statute of limitations under Minn. Stat. § 541.07(5). We recognize that a portion of the principal balance owed to Beam includes vacation pay and that the two-year statute of limitations under section 541.07(5) typically applies to such claims. *Kohout*, 281 Minn. at 402-04, 162 N.W.2d at 238-39. But because the district court found that the agreement as a whole was a type of loan, the vacation pay portion of the principal does not change our conclusion that section 541.07(5) does not apply.

Because section 541.07(5) does not apply, we must determine the relevant statute of limitations for purposes of the “mileage/loan back” arrangement between Stamer and Beam. In his brief to this court, Beam claimed that the statements Stamer prepared indicating amounts owing were accounts stated. The district court referred to the mileage arrangement as a “loan back” to Stamer. At oral argument, Stamer’s attorney indicated that he does not dispute that the arrangement was a loan between the parties. Also at oral argument, Beam’s counsel admitted that calling the arrangement an account stated or a loan would not change his argument that the six-year statute of limitations applies. Beam argues that this is a contract claim that does not fall under the section 541.07(5) wage limitation or any other limitation and is therefore subject to the six-year statute of limitations.

The summary of monies due, which Stamer drafted and both parties signed, was an agreement between the parties—a contract. Although the substance of a contract may bring the contract claim within a two-year statute of limitations for wage claims, here the contract’s substance was a debt or “loan back.” *Cf. Worwa*, 307 Minn. at 492-93, 238 N.W.2d at 631 (applying two-year statute of limitations to contractual wage claim). From the record, there appears to be no date contemplated by the parties upon which a demand for payment would be made or upon which payment would be due to Beam. Indeed, Beam did not seek payment until termination of his employment. We have previously applied the six-year statute of limitations to loan arrangements. *See In re Estate of Dahle*, 384 N.W.2d 556, 559 (Minn. App. 1986) (holding that sister’s “numerous loans to [her brother] from 1967-81 are implied contracts; enforcement of

those made more than six years prior to claim may also be barred by the six-year statute of limitations”). And Stamer has not shown that the loan-back agreement in this case should be treated any differently.

The district court erred when it applied section 541.07(5) to Beam’s claim because Beam’s claim is not a wage claim or any other type of claim covered by section 541.07(5). Because we find that the six-year statute of limitations under Minn. Stat. § 541.05, subd. 1(1), applies, we do not consider Beam’s claim that the district court erred in finding that he testified that the May 15, 2001 statement was part of the employment agreement or that Stamer’s failure to pay Beam was willful.

II.

Beam next claims that the district court abused its discretion when it denied his posttrial motion for attorney fees. This court reviews a district court’s denial of attorney fees for an abuse of discretion. *Becker v. Alloy Hardfacing & Eng’g. Co.*, 401 N.W.2d 655, 661 (Minn. 1987). The district court abuses its discretion when it reaches a “clearly erroneous conclusion that is against logic and the facts on record.” *Dobrin v. Dobrin*, 569 N.W.2d 199, 202 (Minn. 1997).

Beam requested attorney fees in his initial complaint to the district court, apparently under Minn. Stat. § 177.27, subd. 10 (2006), but did not present evidence at trial regarding attorney fees. The complaint also requested a penalty for nonpayment of wages upon demand, pursuant to Minn. Stat. § 181.101 (2006). These statutes apply to labor standards and wage claims. *See* Minn. Stat. § 177.27, subd. 10 (mandating attorney fees when employer has violated Minnesota Fair Labor Standards Act); Minn. Stat.

§ 181.101 (allowing penalty for failure to pay wages). After judgment was entered in September 2005, Beam appealed to this court. This court then dismissed Beam's appeal because the issue of attorney fees was still pending.

In September 2006, Beam filed a motion for attorney fees pursuant to Minn. Stat. § 181.171 (2006), which requires the district court to award attorney fees when an employer has violated Minn. Stat. § 181.13 (2006) by failing to pay earned wages to a discharged employee immediately upon the employee's demand. He submitted affidavits from his attorneys regarding fees and hours. The district court denied Beam's motion for attorney fees because no evidence regarding attorney fees was offered at trial. We affirm the district court's denial of Beam's motion for attorney fees on different grounds. Beam's complaint and motion for attorney fees cited statutes providing attorney fees for successful unpaid wage claims. Because we hold that Beam's claim arises under a "loan back" arrangement and is not a claim for unpaid wages, we find no statutory authority allowing Beam to seek attorney fees.

Affirmed in part, reversed in part, and remanded.