

IN THE COURT OF APPEALS OF TENNESSEE

EASTERN SECTION

**FILED**  
September 25, 1996  
Cecil Crowson, Jr.  
Appellate Court Clerk

BENJAMIN L. DOTSON,

Plaintiff - Appellant,

v.

KNOXVILLE COLLEGE,

Defendant - Appellee.

) C/A NO. 03A01-9604-CV-00133  
)  
) KNOX LAW  
)  
) HON. WHEELER ROSENBALM  
) JUDGE  
)  
) AFFIRMED AND  
) REMANDED

JAMES M. CRAIN, Knoxville, for Plaintiff - Appellant.

ROBERT S. STONE, MCCAMPBELL & YOUNG, P.C., Knoxville, for Defendant - Appellee.

O P I N I O N

Franks. J.

In this action for damages for breach of contract, the Trial Judge directed a verdict for the defendant, and plaintiff has appealed.

Plaintiff entered a work arrangement with defendant, and the arrangement was acknowledged by defendant in the form of a letter which read:

Effective August 1, 1989, you will be compensated for your contractual services here at Knoxville College as follows:

- 1. Travel expenses - \$500.00

2. Tuition waiver for Obadiah and Alfredo Dotson as needed here or at one of the other 43 Presbyterian Colleges if accepted.

3. Living quarters here on campus, plus utilities, plus meals in the dining hall.

4. An amount given each pay period for personal expenses such as, laundry, local telephone services, and toiletries -- \$250.00

If the amount stated above is not used it will accumulate until such time as you find use for it.

The letter was signed by defendant's executive vice president, Dennis Spellman.

At the time of plaintiff's employment, his sons were in high school, and plaintiff was terminated by the College after having been employed for ten months.

After the sons graduated from high school, plaintiff asked the College to honor what he considered to be the contractual benefit of tuition waiver, as the sons wanted to attend Maryville College, one of the 43 affiliated Presbyterian colleges referenced in the letter. Defendant offered to waive tuition for both sons to attend Knoxville College, but they were not given waivers to Maryville College because the waiver program for the other colleges was conditioned upon the parent being a current employee.

The plaintiff represented himself in the trial before a jury, and the proof offered at trial was the letter representing the agreement with Knoxville College. Appellant and his son testified as to the understanding that the two sons would be entitled to four years of college attendance at any of the 44 Presbyterian colleges, but the Trial Court determined that the letter was not sufficiently definite to

constitute such a contract.

When reviewing a trial court's grant of directed verdict, it is our duty to:

look at all the evidence, take the strongest legitimate view of the evidence in favor of the opponent of the motion, allow all reasonable inferences to that party, discard all countervailing evidence and deny the motion where there is any doubt as to the conclusions to be drawn from the whole evidence. A verdict should be directed only where a reasonable mind could draw but one conclusion.

*Benton v. Snyder*, 825 S.W2d 409 (Tenn. 1992), citing *Goode v. Tanko Asphalt Products, Inc.*, 783 S.W2d 184, 187 (Tenn. 1989).

Indefiniteness as to any essential element of an agreement may prevent the creation of an enforceable contract. *Peoples Bank of Elk Valley v. Conagra Poultry Co.*, 832 S.W2d 550, 553 (Tenn. App. 1991). Examples of contracts which have been found too indefinite include *Jamestowne on Signal, Inc. v. First Federal Savings & Loan Assoc.*, 807 S.W2d 559 (Tenn. App. 1990), where a directed verdict was granted because the loan agreement did not contain essential elements of a loan, such as the amount to be loaned, the duration of the loan, how it was to be repaid, the rate of interest to be paid and when, what security, if any, was to be given. *Id.* at 564. *Higgins v. Oil, Chemical, & Atomic Workers* found an agreement to take care of certain workers too indefinite because the terms did not provide a basis for determining the existence of a breach and for giving an appropriate remedy. 881 S.W2d 875 (Tenn. 1991), citing *Restatement 2d of Contracts*, § 33(2). The *Higgins* contract gave no means to determine the essential details of the contract, for example, how long were the

payments to continue, were they to increase as the wages of the regular workers increased, when and under what circumstances might they be terminated? *Id.* at 881.

In this case, the letter from Knox College leaves many questions unanswered. There is no term stating how many years of waived tuition the sons could receive or how many years of work plaintiff had to provide. There is nothing dealing with the situation found in this case, where plaintiff was terminated before the boys completed school. There is no criteria for determining when plaintiff became entitled to the waivers.

The record establishes that in order to qualify at the other colleges for the waiver, the parent must be employed by the college at the time, and a court in ascertaining the intention of the parties considers all circumstances surrounding the parties, the nature of business in which they are engaged, and to which the contract relates. *Commerce Street Co. v. Goodyear Tire & Rubber Co.*, 215 S.W2d 4, (Tenn. App. 1948). The record before us, taken in the strongest view on behalf of the plaintiff, does not establish the necessary elements of an enforceable contract for tuition waivers. Accordingly, we affirm the judgment of the Trial Court on this issue.

Finally, plaintiff argues that the Trial Court was in error in sustaining defendant's defendant's objections to plaintiff's testimony that he had received praise for his work at the college.

During the trial, plaintiff testified that he had ?received many praises and accolades for [his] performance? at

work. The Trial Court sustained defendant's objection to the testimony on the grounds that it was irrelevant as to whether plaintiff breached the contract.

Trial judges have broad discretion over the admissibility of evidence. *Otis v. Cambridge Mutual Fire Insurance Co.*, 850 S.W2d 439, 442 (Tenn. 1992). Appellate courts will reverse a trial judge's decision only when the trial court has abused his or her discretion and when the error has affected substantial rights of one of the parties. *Id.* Citing Tennessee Rules of Evidence 103(a).

In order to be relevant, evidence must tend to make the existence of a fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence. Tennessee Rules of Evidence 401. Here, plaintiff's performance on the job is not of consequence to the determination of whether the contract existed or whether the at-will contract was breached. The Trial Judge did not abuse his discretion in excluding this testimony.

For the foregoing reasons we affirm the judgment of the Trial Court and remand with costs of appeal assessed to plaintiff.

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Herschel P. Franks, J.

CONCUR:

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Charles D. Susano, Jr., J.

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Clifford E. Sanders, Sp.J.