

Wheeler County, Nebraska v. Howard

Case Number

S-18-0913

Case Audio

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May 22, 2019

Court Number

Wheeler

Case Location

Lincoln

Case Summary

S-18-0913, Wheeler County, Nebraska (Appellee) v. Daniel Howard (Appellant)

District Court for Wheeler County, Judge Karin L. Noakes

Attorneys: James J. McNally (McNally Law Office) for Appellee --- Brandon B. Hanson for Appellant

Civil: Employment Contract Dispute

Proceedings Below: The district court affirmed the county court's grant of summary judgment prior to trial in favor of Wheeler County.

Issues: 1) The March 1, 2018, Wheeler County Court order incorrectly concludes Neb Rev Stat § 23-1114.09 did not apply to Daniel Howard's time at the training center. Daniel

Howard was required by the contract to attend the Nebraska Law Enforcement Training Center.

Since the contract Wheeler County presented requires being willing and capable of getting certified, going through the Nebraska Law Enforcement Training Center would be within the scope of his official duties and as such Neb Rev Stat § 23-1114.09 does apply. 2) The Wheeler County Court order incorrectly concludes Neb Rev Stat § 23-1114.09 did not apply to Daniel Howard's time at the training center. Daniel Howard was required by statute to attend training within one (1) year of employment. See Neb Rev Stat § 81-1414(2). It is Defendant's argument that going through the required training would be within the scope of his official duties and as such Neb Rev Stat § 23-1114.09 does apply. 3) The evidence presented by the Plaintiff did not sufficiently show that there are no issues of material fact regarding any affirmative defenses, including on disputing the amount being sought and supervening frustration. See City State Bank v. Holstine, 260 Neb 578, 584-585, 618 NW2d 704 (2000). The deposition of Wheeler County Sheriff Lindsay shows that Daniel Howard had no ability to negotiate any of the terms of the contract. 4) The Wheeler County District Court erred when it ruled that the reimbursement provision of the contract did not violate the minimum pay requirement of Neb Rev Stat § 23-1114.09. 5) Both the Wheeler County Court and Wheeler County District Court erred in granting summary judgment because the reimbursement provision would result in Daniel Howard's wages for the time period in question being less than the minimum wage and it be would inequitable to require

him to pay back insurance premiums and his wages.
