STATE OF MICHIGAN

COURT OF APPEALS

JOHN GABLER,

Plaintiff-Appellant,

v

HARTFORD INSURANCE COMPANY,

Defendant-Appellee.

November 14, 1991

No. 121075

Before: MacKenzie, P.J., and Sawyer and Jansen, JJ.

PER CURIAM.

In this action for work loss benefits under the no-fault act, MCL 500.3101, et seq.; MSA 24.13101, et seq., plaintiff appeals by right from a September 5, 1989 opinion and order, granting summary disposition under MCR 2.116(C)(10) in favor of defendant. Plaintiff claims that the trial court erred in finding no genuine issue of material fact on whether he was temporarily unemployed as set forth in § 3107a of the no-fault act, MCL 500.3107a; MSA 24.13107(1), for the purpose of computing the amount of his work loss benefits. Plaintiff, in particular, claims that a factual issue existed concerning his intention to participate in the work force on a full-time basis in either his own business or as an employee of someone else.

We have limited our review of this issue to the record developed in the trial court. Wiand v Wiand, 178 Mich App 137, 143; 443 NW2d 464 (1989). In addition, we note that plaintiff has not raised any specific issue pertaining to defendant's computation of his wage loss benefits as a self-employed individual. See, e.g., Adams v Auto Club Ins Ass'n, 154 Mich App 186; 397 NW2d 262 (1986), lv den 428 Mich 870 (1987). Plaintiff's sole claim is that wage loss benefits should be computed based on § 3107a of the no-fault act.

We hold that the trial court correctly found no genuine issue of material fact on whether plaintiff was "temporarily unemployed" within the meaning of § 3107a. As noted by the trial court, plaintiff admitted that he procured a license to start his own business and had in fact started his own business before the automobile accident. The fact that a business is just beginning to get off the ground, as averred by plaintiff in ¶ 5 of his affidavit, does not render a self-employed individual "temporarily unemployed" within the meaning of § 3107a. The goal of the no-fault act is to place the person in the same, but no better, position than he was before the automobile accident. Adams, supra, p 193. We express no opinion on the impact of this type of situation to the computation of wage loss benefits under § 3107(b) of the no-fault act.

Having given careful consideration to plaintiff's affidavit and the other proofs submitted to the trial court, we conclude that plaintiff did not meet his burden under MCR 2.116(G)(4) to set forth specific facts, by affidavit or as otherwise provided in the rule, showing a genuine issue for trial on the applicability of § 3107a to his situation. See generally Clute v General Accident Assurance Co, 179 Mich App 527; 446 NW2d 839 (1989), lv den 435 Mich 857 (1990), O'Neal v Allstate Ins Co, 176 Mich App 390; 439 NW2d 363 (1989), lv den 429 Mich 876 (1987), and Oikarinen v Farm Bureau Mut Ins Co of Michigan, 101 Mich App 436; 300 NW2d 589 (1980), lv den 411 Mich 908 (1981).

We also note that plaintiff, contrary to his assertion at oral argument, did not raise the applicability of § 3107(b) in either his pleadings filed with the lower court or his brief filed with this Court on appeal. Therefore, because the issue was not addressed by the trial court, we will not review this issue. Thomas v Leja, 187 Mich App 418, 421; 468 NW2d 58 (1991).

Therefore, we affirm the trial court's opinion and order.

Affirmed.

/s/ Barbara B. MacKenzie
/s/ David H. Sawyer
/s/ Kathleen Jansen