NOTICE
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2011 IL App (5th) 100287-U

NO. 5-10-0287

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

DENNIS RENNER and ALICE MILLER,	)	Appeal from the
	)	Circuit Court of
Plaintiffs-Appellees,	)	St. Clair County.
	)	
v.	)	No. 06-L-341
	)	
LTI TRUCKING SERVICES, INC.,	)	Honorable
	)	Andrew J. Gleeson,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE STEWART delivered the judgment of the court.
Justices Goldenhersh and Spomer concurred in the judgment.

O R D E R

¶ 1 *Held*: During a bench trial on a claim for retaliatory discharge for employees exercising their rights under the Workers' Compensation Act, the circuit court did not abuse its discretion in excluding evidence that the employer hired other employees with previous workers' compensation claims. The circuit court's judgment in favor of the employees was not against the manifest weight of the evidence.

¶ 2 The plaintiffs, Dennis Renner and Alice Miller, filed a complaint against the defendant, LTI Trucking Services, Inc. (LTI Trucking), alleging a cause of action for retaliatory discharge. The plaintiffs alleged that LTI Trucking fired them in retaliation for exercising their rights under the Illinois Workers' Compensation Act (820 ILCS 305/1 *et seq*. (West 2002)). After a bench trial, the circuit court entered a judgment in favor of the plaintiffs and against LTI Trucking. LTI Trucking appeals the circuit court's judgment, arguing that the circuit court abused its discretion in excluding evidence that it hired other individuals with prior workers' compensation

claims and that the circuit court's judgment was against the manifest weight of the evidence. For the following reasons, we affirm the circuit court's judgment.

¶ 3 BACKGROUND

¶ 4 The plaintiffs were first employed with Lanter Transport, Inc. (Lanter Transport), a trucking company that was primarily servicing the Midwest region. Renner began employment with Lanter Transport in November 1993 as a truck driver. Renner suffered two work-related accidents in 2004 that resulted in injuries to his right arm and shoulder. Miller began working for Lanter Transport as a truck driver in February 2002. In April 2004, she suffered a work-related accident that resulted in injuries to her lower back.

¶ 5 The evidence at the trial established that Lanter Transport had a light-duty program for workers who had been injured in work accidents. The light-duty program provided an injured worker with a modified position that facilitated the person's ability to come to work until such time as he or she could return to work without any restrictions. Sometime after their work injuries, both Renner and Miller were put into the light-duty program. Renner worked full-time as a shop maintenance assistant, and Miller worked part-time in an office clerical position. Even though their job duties were modified to accommodate their injuries, they were still employees of Lanter Transport and were paid for the hours they worked in their light-duty positions.

¶ 6 Renner's duties in the shop included answering the telephone when the secretary was off work, changing paperwork inside the company's trucks, fueling the trailers, and picking up drivers or parts. He worked in the shop eight hours a day, five days per week. He usually arrived at work at approximately 6 a.m. His shift began at 7 a.m. and ended at 3 p.m. Steve Haas, the shop manager, gave Renner his job duties each day. Miller testified that her assignment in the office involved filing and

copying duties for four hours per day, five days a week. She worked from 7 a.m. to 11 a.m.

¶ 7 Lanter Transport's safety manager, Steve Mays, was the contact person between Lanter Transport and its insurance carrier, and he kept the insurance carrier updated on the daily or weekly status of Renner's and Miller's workers' compensation claims. He was also responsible for the company's light-duty program. He testified that the light-duty program was "strictly a temporary modified position that facilitates a person's ability to come to work and work at least on a temporary basis until such time they can return without any restrictions."

¶ 8 Mays testified that if there was no one on light duty, no one performed the tasks that a person on light duty would perform and that a person with a non-work-related injury was not eligible for light-duty work. He testified that the benefit that the company received from paying an employee to perform light duty was to get the worker back to work as soon as possible. He testified that if the employee would not be able to return to full duty, the employee would be terminated and would not be allowed to continue working light duty. According to Mays, the program helped transition injured employees back to full-time work and helped offset the company's workers' compensation claims.

¶ 9 Mays testified that he knew that Miller's light duty was a clerical position, but he was not sure what she did on a day-to-day basis. He testified that he assigned Renner to run parts for the shop as his light-duty position. He did not know what other duties Renner performed in the shop as part of his light-duty work.

¶ 10 From 1999 until September 29, 2005, Nick Civello was Lanter Transport's director of sales and marketing. His job as director of sales and marketing consisted primarily of business development and customer relations. Civello knew that Renner

and Miller were employees of Lanter Transport, but he did not know what they did on a day-to-day basis. Civello also admitted during his testimony that merely because certain employees may have had their duties modified did not mean that they were not employees of Lanter Transport.

¶ 11 Civello testified that in 2005, he formed the defendant corporation, LTI Trucking, for the purpose of purchasing all of Lanter Transport's assets and to take over Lanter Transport's trucking operations. Civello is LTI Trucking's president and sole shareholder. On September 29, 2005, LTI Trucking and Lanter Transport entered into an asset purchase agreement whereby LTI Trucking agreed to purchase all of Lanter Transport's assets, tangible personal property, equipment, parts, trucks, trailers, cars, office equipment, computer equipment, software and systems, prepayments and deposits, inventory, supplies, contracts, owner operator agreements, leases, books, and records.

¶ 12 On September 29, 2005, Lanter Transport's employees were informed of the buyout. Chris Lanter sent a letter to all of Lanter Transport's employees that stated as follows: "On October 1st 2005 Lanter Transport will be acquired by Nicholas Civello, our current Vice President of Marketing." The letter further stated that the transition would be "seamless from a job and benefits perspective." He stated, "I am sure there will be administrative issues that need to be attended to over the next week[;] please be as patient and cooperative as you can as we get everyone signed up with the new company."

¶ 13 According to Civello, Lanter Transport discontinued operations and no longer existed on Friday, September 30, 2005. Civello testified that LTI Trucking stepped into Lanter Transport's locations and took "over as if nothing changed." He testified that his intent "was to have a smooth and seamless transition from Friday, September

30th, to October 1, 2005."

¶ 14 He testified that from Friday, September 30, 2005, to Saturday, October 1, 2005, nothing inside Lanter Transport's offices or shop changed. The desks remained the same; nobody had to clean out their desk and wait to come back when LTI Trucking decided whether to hire them.

¶ 15 During Civello's testimony, the plaintiffs' attorney questioned him about the transition of Lanter Transport's employees. The following colloquy took place:

"Q. *** The–your intent also was to have all of the employees from Lanter Transport, Inc. that were employees on September 30, 2005, to become employees of LTI on October 1, correct?

A. That was my intentions, correct.

Q. Okay. And, in fact, it was your belief, your understanding, until Wednesday of the following week when you had a meeting with Steve Mays, your director of safety, I believe *** you were under the belief that everybody who was employed by Lanter Transport, Inc. had become employees of LTI, is that correct?

A. Correct.

Q. And that included Dennis Renner and Alice Miller, correct?

A. No, it did not. Dennis and Alice were not–did not obtain full-time positions.

Q. That wasn't my question. You–your intent was that–as you previously testified, was that all employees of Lanter Transport, Inc. were going to become employees of LTI?

A. My intentions were everyone who obtained a position with Lanter, a full-time position, would hopefully come and work with LTI if they chose.

Q. Sir, before October 5th were you under the impression that all of the Lanter

employees were being moved over to LTI?

A. Yes."

¶ 16 At the time of the sale, Lanter Transport had approximately 85 drivers, 30 office employees, and 7 management employees, for a total of approximately 122 employees. During Civello's negotiations with Lanter Transport, there were no discussions concerning Lanter Transport's employees because Civello believed that all of Lanter Transport employees were going to become LTI Trucking employees.

¶ 17 Civello knew that the plaintiffs were truck drivers, but he did not know what specifically they were doing for Lanter Transport when he purchased its assets. When LTI Trucking began its operations at the beginning of October 2005, Civello did not know what the plaintiffs did on Monday, Tuesday, Wednesday, or Thursday of its first week of operations. He testified that his duties as the president of the company would not have required him to know the plaintiffs' duties. LTI Trucking's managers or supervisors were responsible for their duties.

¶ 18 On Friday, September 30, 2005, Civello had the company's administration manager put together packages for the Lanter Transport employees that included an application for employment with LTI Trucking. The packages were distributed to the department heads on Friday, September 30, 2005, to be distributed to the employees. Everyone received packages on Friday except the over-the-road drivers who were out on deliveries, which constituted approximately 10% to 20% of the fleet. These drivers were notified of the acquisition over the company's communications system. Some of the drivers might not have returned until a week later, but they were considered to be employees of LTI Trucking as of the date of the acquisition even though they had not filled out an application.

¶ 19 The package for the employees contained a letter from Civello that was dated September 28, 2005. The letter stated, in part, as follows:

"Lanter Transport Inc. will transition to LTI Trucking Services, Inc. and our company structure and your position will remain the same. This acquisition will not affect your benefits, seniority, salary, and position."

¶ 20 Civello viewed the application that was contained in the packet as a formality. He testified, "[I]f they obtained a package, their name was on the package, it was presented to them and that was a package for them to be employed by LTI."

¶ 21 Renner testified that he first heard that LTI Trucking was taking over the company on Friday, September 30, 2005. He was off work that day, but Mays called him to let him know that there was a change in ownership and that he had to see him and fill out some paperwork. Mays told Renner to see him on Monday.

¶ 22 Miller also first heard about the sale of the company on September 30, 2005. According to Miller, Mays told her that morning that LTI Trucking had bought the company and that she should come and see him that afternoon to get a package with paperwork for her to fill out. When she told him that she only worked a four-hour shift, he told her to see him the following Monday.

¶ 23 When Renner showed up for work on Monday, he went to the shop, checked with Haas, and "did whatever the shop needed done." Sometime that morning, Renner went to see Mays as he was instructed. According to Renner, Mays told him that he was extremely busy with other paperwork and to go back to the shop. He would call him later. Near the end of his shift on Monday, Renner called Mays, and Mays told him to check with him the next day. Miller also went to see Mays on Monday, and Mays told her that he was busy, to go back to copying and filing, and that he would get to her later.

¶ 24 Renner arrived at work around 6 a.m. on Tuesday. He again checked in with Haas and worked in the shop. He went to see Mays, and Mays again told him that he was too busy and that he would contact him later. At the end of the day on Tuesday, Renner called Mays, and Mays told him to check with him on Wednesday. Miller also came to work again on Tuesday and checked with Mays. He told her that he was still too busy and to check with him later. Miller then performed her filing and office duties. She testified that she was very busy because the volume of paperwork increased due to the change of ownership. When she was close to leaving on Tuesday, she again asked Mays if he had her packet. He stated that he was still busy and that he would see her the first thing in the morning.

¶ 25 On Wednesday, Renner again reported for work in the shop. He called Mays, and Mays told him to see him on Thursday. Miller asked Mays for her packet on Wednesday morning, and Mays again told her that he was still busy and would get back to her the next day. Miller then proceeded with her copying and filing work that day.

¶ 26 Mays testified that he did not make hiring and firing decisions and that he did not know Renner's or Miller's status of employment with LTI Trucking when the transition occurred. On Wednesday, October 5, 2005, he had a meeting with Civello about Renner and Miller. At that meeting, Mays informed Civello that the plaintiffs were on modified duty as a result of work-related injuries. Civello did not ask what the plaintiffs had been doing since the acquisition, but testified that he assumed that they were not working. He testified that when the plaintiffs' situation was brought to his attention, Mays asked him if LTI Trucking had positions available for them. Civello testified that LTI Trucking did not have any light- duty positions available and had not acquired any of Lanter Transport's liabilities. Civello, therefore, told

Mays that there were no positions available for the plaintiffs but to tell them that once they were released for full-time work, they could fill out applications. According to Civello, no one told him that the plaintiffs had been working for LTI Trucking since the acquisition. Civello did not give Mays specific instructions concerning when he was to inform the plaintiffs that there were no positions available for them.

¶ 27 On Thursday, October 6, 2005, Renner reported to work at the shop, and at some point that day, Mays called him for a meeting. At the meeting, Mays told Renner that there was no position available for him. Mays told Renner that LTI Tucking did not have a position to offer anybody that was less than a full-duty position. Renner asked for and received an LTI Trucking employment application that he filled out and gave to Mays. He asked Mays if he was going to get paid for the work he had done that week, and Mays responded that he did not know and guessed that Lanter Transport would have to pay him.

¶ 28 Mays also told Miller on Thursday, October 6, that she no longer had a job. He gave her an application and told her that she could fill it out. He told Miller that Lanter Transport would pay for the work she had done that week. Miller filled out the LTI Trucking employment application on October 19, 2005.

¶ 29 On Friday, October 7, 2005, LTI Trucking's benefits coordinator sent a letter to Renner on Lanter Transport's letterhead that stated, in part, "Since you are no longer employed with Lanter Transport as of 9/30/05, your benefits have terminated as of that date."

¶ 30 Mays testified that LTI Trucking had a modified-duty program that was in place when LTI Trucking began operating on October 1, 2005. If one of LTI Trucking's drivers had become injured on Saturday, October 1, or Sunday, October 2, he or she could have participated in LTI Trucking's light-duty program or part-time

work program. Civello testified that Renner and Miller were not eligible for LTI Trucking's light-duty program or part-time work program because their workers' compensation claims were against Lanter Transport. He testified that there was no benefit to LTI Trucking to hire them because their light duties "could be anything from clerical to sometimes just sitting around." The program was "really just trying to get them back in the workplace." He testified, "It was not in our interest to create a modified duty position for a Lanter work comp claim."

¶ 31 Renner testified that sometime after October 6, 2005, he saw a help-wanted advertisement in the local newspaper placed by LTI Trucking. The advertisement was for a shop maintenance assistant. The duties listed in the advertisement included fueling trailers, cleaning trailer interiors, checking drop trailers on the lot, and other light mechanical work. He testified that the duties listed in the advertisement were the same duties he performed in the shop when he was on light duty. Renner was not a mechanic, but his duties in the shop included jump-starting trucks and delivering parts. He believed that light mechanical work included checking and topping off fluids in the trucks, making sure the lights and air lines were working properly, and checking that the "gland hand" seals were intact. He believed that he was capable of performing all of these duties.

¶ 32 Civello testified that he was not aware that LTI Trucking had advertised for a shop maintenance assistant. He was not involved with the shop duties at Lanter Transport or LTI Trucking. The shop manager handled the management of shop duties. Steve Mays testified that an individual named Amos worked as the shop maintenance assistant and that the duties listed in the help-wanted advertisement described the duties that Amos performed. Amos considered retirement and stopped working shortly after the transition from Lanter Transport to LTI Trucking. However,

Amos was gone for only a couple of months and subsequently came back to work.

¶ 33 At the conclusion of the trial, the circuit court took the matter under advisement. On January 28, 2010, the circuit court entered a judgment in favor of Renner and Miller and against LTI Trucking. The court awarded Renner $30,700 for lost wages and benefits and $25,000 for emotional distress. It awarded Miller $47,491 for lost wages and benefits and $10,000 for emotional distress. The court also awarded $182 to Renner and $104 to Miller for LTI Trucking's violation of the Wage Payment and Collection Act (820 ILCS 115/1 *et seq*. (West 2006)). The court denied the plaintiffs' request for punitive damages. LTI Trucking appeals the circuit court's judgment.

¶ 34 ANALYSIS

¶ 35 The first argument that LTI Trucking raises on appeal is that the circuit court abused its discretion in barring it from presenting evidence that it hired other Lanter Transport employees who had prior workers' compensation claims. LTI Trucking argues that this evidence was admissible since the ultimate issue the circuit court was to determine was whether LTI Trucking's motive in not hiring the plaintiffs was because they exercised their rights under the Workers' Compensation Act. We disagree.

¶ 36 The admissibility of evidence rests within the sound discretion of the trial court, and its decision will not be reversed unless it amounts to an abuse of discretion. *Cress v. Recreation Services, Inc.*, 341 Ill. App. 3d 149, 179, 795 N.E.2d 817, 846 (2003). A trial court abuses its discretion only when no reasonable person would take the view adopted by the trial court. *Foley v. Fletcher*, 361 Ill. App. 3d 39, 46, 836 N.E.2d 667, 674 (2005). In addition, the court will not reverse a judgment based on a circuit court's evidentiary rulings unless the error "substantially prejudiced the

aggrieved party and affected the outcome of the case." *Wilbourn v. Cavalenes*, 398 Ill. App. 3d 837, 848, 923 N.E.2d 937, 948 (2010).

¶ 37 We must analyze the circuit court's discretion in light of the disputed issues at the trial. At the time LTI Trucking purchased Lanter Transport, section 4(h) of the Workers' Compensation Act (820 ILCS 305/4(h) (West 2006)) provided as follows:

"It shall be unlawful for any employer, individually or through any insurance company or service or adjustment company, to discharge or to threaten to discharge, or to refuse to rehire or recall to active service in a suitable capacity an employee because of the exercise of his or her rights or remedies granted to him or her by this Act."

¶ 38 . The Workers' Compensation Act is remedial in nature and is designed to promote the general welfare; a cause of action for retaliatory discharge exists in furtherance of this public policy. *Wright v. St. John's Hospital of the Hospital Sisters of the Third Order of St. Francis*, 229 Ill. App. 3d 680, 689, 593 N.E.2d 1070, 1076 (1992).

¶ 39 In order to maintain a claim for retaliatory discharge, an employee must prove the following: (1) the employment was terminated by the employer, (2) the discharge was in retaliation for action of the employee, and (3) the discharge violates a clear mandate of public policy. *Barr v. Kelso-Burnett Co.*, 106 Ill. 2d 520, 529, 478 N.E.2d 1354, 1358 (1985). When the plaintiff proves his *prima facie* case, the employer has the burden to articulate some legitimate, nondiscriminatory reason for the employee's discharge. *All Purpose Nursing Service v. Illinois Human Rights Comm'n*, 205 Ill. App. 3d 816, 827, 563 N.E.2d 844, 851 (1990). After the employer meets its burden, the plaintiff must prove, by a preponderance of the evidence, that the legitimate reasons offered by the defendant were a pretext for discrimination and were not its

true reasons for the termination. *Id.*

¶ 40 In the present case, the plaintiffs alleged that LTI Trucking terminated them because they had previously exercised their rights under the Workers' Compensation Act when they were Lanter Transport employees. LTI Trucking, however, maintained that it never hired the plaintiffs and, therefore, did not fire them. Accordingly, it did not argue that it terminated the plaintiffs for legitimate reasons. LTI Trucking attempted to introduce evidence that it hired other Lanter Transport employees who had previous workers' compensation claims against Lanter. It sought to introduce this evidence to show that it did not refuse to hire the plaintiffs due to their workers' compensation claims.

¶ 41 During her testimony, Miller was presented with a list of Lanter Transport employees that included herself and Renner, and she was asked by LTI Trucking's counsel if she could identify other employees on the list who had filed workers' compensation claims against Lanter Transport. The circuit court sustained the plaintiffs' objection to this line of questioning based on *Knecht v. Radiac Abrasives, Inc.*, 219 Ill. App. 3d 979, 579 N.E.2d 1248 (1991). The circuit court ruled as follows: "The case law is clear that the treatment of other employees is not relevant to the treatment of a specific employee in this particular case, so I'm going to sustain the objection."

¶ 42 LTI Trucking raised the issue again during Renner's testimony when he was asked if he knew whether there were other Lanter Transport employees who had filed workers' compensation claims but were hired by LTI Trucking. The court again sustained the plaintiffs' objection, and LTI Trucking made an offer of proof by questioning Renner as follows:

"Q. Was Ralph Ledbetter on light duty at Lanter for a work-related injury?

***

A. Yes.

Q. And was he off work at the time of the transition with LTI and Lanter?

A. No. He went back to work.

Q. And he was hired by LTI, correct?

A. Yes."

¶ 43 LTI Trucking made a second offer of proof during Mays' testimony. Mays reviewed a list containing former Lanter Transport employees and identified 10 drivers on the list "that had filed workers' compensation claims or sought benefits under the Workers' Compensation Act while employed with Lanter." We believe that the circuit court did not abuse its discretion in relying on *Knecht* and excluding the proffered testimony because it was irrelevant. In addition, LTI Trucking has not established prejudice as a result of the exclusion of this evidence.

¶ 44 In *Knecht*, the plaintiff sued the defendant claiming that it discharged him for exercising his rights under the Workers' Compensation Act, and a jury found in favor of the plaintiff. On appeal, the defendant argued that the circuit court erred in refusing to allow one of its witnesses to testify about how its personnel director had handled previous workplace disputes and refusing to admit into evidence a list of previously filed and favorably resolved workers' compensation claims.

¶ 45 In affirming the circuit court's evidentiary ruling, the *Knecht* court noted that "[e]vidence of conduct of a person on another occasion is not relevant on the question of his conduct on the occasion in issue unless offered to show habit, state of mind, knowledge, or intent." *Knecht*, 219 Ill. App. 3d at 986, 579 N.E.2d at 1252. The court stated that while evidence of state of mind and intent is admissible in criminal cases, it is generally not admissible in civil cases. *Id*. The court determined that the

only relevance the evidence could have was to establish the defendant's habit or routine business practice of not mistreating or refusing to employ workers' compensation claimants. *Id*. The court held, however, that the evidence was not proper evidence of habit or routine practice. *Id*.

¶ 46 The evidence did not qualify as habit evidence because, in part, the treatment of other employees with workers' compensation claims involved "a discretionary act, not semiautomatic and invariably regular." *Knecht*, 219 Ill. App. 3d at 987, 579 N.E.2d at 1253. The evidence was not admissible as the defendant's routine practice because the "types of conduct qualifying for admission as a routine business practice are ministerial acts: mailing, filing, sending notice, and the like." *Knecht*, 219 Ill. App. 3d at 988, 579 N.E.2d at 1253-54. Evidence that the defendant did not mistreat or refuse to employ workers' compensation claimants was not evidence of routine business practice. *Id*.

¶ 47 Likewise, in the present case, LTI Trucking's proffered evidence did not qualify as proper evidence of habit or routine practice. The circuit court was within its discretion to find that testimony that LTI Trucking hired other Lanter Transport employees who had previous workers' compensation claims was not probative on the issue of whether LTI Trucking terminated the plaintiffs for exercising their rights under the Workers' Compensation Act.

¶ 48 Custom evidence of an organization "must be sufficiently detailed and specific, and the situations involved must be similar enough to give rise to a reliable inference." *Brennan v. Wisconsin Central Ltd.*, 227 Ill. App. 3d 1070, 1085, 591 N.E.2d 494, 505 (1992). LTI Trucking's offer of proof did not establish that the plaintiffs' situations were similar enough to any of the other LTI Trucking employees who had previous workers' compensation claims. General testimony that other LTI

Trucking employees had filed workers' compensation claims does not sufficiently establish that the other employees' situations were similar to the plaintiffs' situations.

¶ 49 Furthermore, throughout the trial, LTI Trucking maintained that it never employed the plaintiffs and denied that they worked for LTI Trucking. Mays testified that the plaintiffs' workers' compensation claims against Lanter Transport were not included in LTI Trucking's asset purchase and, therefore, LTI Trucking never offered the plaintiffs any jobs. LTI Trucking consistently maintained throughout the trial that the plaintiffs did not perform any services for it from Monday, October 3, 2005, to Thursday, October 6, 2005, and denied terminating the plaintiffs. Therefore, whether LTI Trucking had a legitimate, nondiscriminatory reason for discharging the plaintiffs never became an issue at the trial. As a result, LTI Trucking has failed to establish prejudice from the trial court's exclusion of this evidence. See *Leary v. Eng*, 214 Ill. App. 3d 279, 284, 573 N.E.2d 352, 356 (1991) (unless substantial prejudice affecting the outcome of the trial is shown, the judgment of the trial court should not be reversed on the basis of an evidentiary ruling).

¶ 50 LTI Trucking's defense that it never hired the plaintiffs also renders *Reinneck v. Taco Bell Corp.*, 297 Ill. App. 3d 211, 696 N.E.2d 839 (1998), distinguishable from the present case. In *Reinneck*, the plaintiff filed a complaint against her employer alleging that the employer discharged her in retaliation for asserting her rights to workers' compensation benefits. After a bench trial, the trial court entered a judgment in favor of the plaintiff. On appeal, the defendant argued that the trial court erred in admitting the testimony of former employees who were fired for filing claims or who heard management personnel discussing firing employees who filed compensation claims. The *Reinneck* court held that the evidence was properly admitted and was

relevant to show the defendant's motive for terminating an employee who files, or might file, a compensation claim. *Reinneck*, 297 Ill. App. 3d at 216, 696 N.E.2d at 843.

¶ 51 We agree with the plaintiffs that *Reinneck* is distinguishable from the present case. As noted above, in order to prevail in their claim for retaliatory discharge, the plaintiffs were required to establish the following *prima facie* case: that their employment with the defendant was terminated, that the terminations were in retaliation for their actions, and that the terminations violated a clear mandate of public policy. *Barr*, 106 Ill. 2d at 529, 478 N.E.2d at 1358. Once the plaintiffs established their *prima facie* case, the employer had the burden to articulate some legitimate reason for the terminations, and the plaintiffs must prove that the defendant's reasons were a pretext and not the true reasons for the termination. *Gomez v. The Finishing Co.*, 369 Ill. App. 3d 711, 718-19, 861 N.E.2d 189, 197 (2006). In the present case, LTI Trucking's defense was to challenge the plaintiffs' proof concerning their *prima facie* case, *i.e.*, that the plaintiffs failed to prove that they were ever employees of LTI Trucking. LTI Trucking's defense was not based on articulating a legitimate, nondiscriminatory reason for the plaintiffs' *discharge*. In addition, the plaintiffs did not claim that LTI Trucking improperly refused to hire them. Under these facts, the circuit court's exclusion of evidence relevant to an employer's hiring motives was not prejudicial to the defense that the defendant never hired the plaintiffs.

¶ 52 LTI Trucking argues, alternatively, that the circuit court's judgment in favor of the plaintiffs was against the manifest weight of the evidence. We disagree.

¶ 53 A trial court's decision following a bench trial is reviewed to determine if the judgment is against the manifest weight of the evidence. *Gambino v. Boulevard Mortgage Corp.*, 398 Ill. App. 3d 21, 51, 922 N.E.2d 380, 409 (2009). A judgment is not against the manifest weight of the evidence unless the opposite conclusion is

clearly evident. *Id.* "Where there are different ways to view the evidence, or alternative inferences to be drawn from it, we accept the view of the trier of fact as long as it is reasonable." *People ex rel. Illinois Historic Preservation Agency v. Zych*, 186 Ill. 2d 267, 278, 710 N.E.2d 820, 825 (1999). "It is irrelevant whether we may have reached a different result were we the trier of fact; it is not the function of this or any other reviewing court to reweigh evidence." *Id.*

¶ 54 A trial court is in a superior position to observe witnesses while testifying, to judge their credibility, and to determine the weight of their testimony. *Southwest Bank of St. Louis v. Poulokefalos*, 401 Ill. App. 3d 884, 891, 931 N.E.2d 285, 291 (2010). Moreover, resolving conflicts relating to the credibility of witnesses and the weight to be afforded their testimony is the province of the trial court. *1350 Lake Shore Associates v. Casalino*, 352 Ill. App. 3d 1027, 1040, 816 N.E.2d 675, 687-88 (2004). Accordingly, a trial court's findings of fact are entitled to great deference by this court. *Southwest Bank of St. Louis*, 401 Ill. App. 3d at 891, 931 N.E.2d at 291.

¶ 55 In the present case, the evidence at the trial supported a factual finding that the plaintiffs began working as LTI Trucking employees on Monday, October 3, 2005, and were terminated on Thursday, October 6, 2005. While LTI Trucking maintained that it did not hire the plaintiffs, the circuit court found against it on this disputed factual issue. We cannot find that the circuit court's finding was against the manifest weight of the evidence.

¶ 56 At the time of the transition from Lanter Transport to LTI Trucking, Mays was aware that Renner was working 40 hours every week in the shop and that Miller was working 20 hours every week in the office. There was no dispute that Renner and Miller were employees of Lanter Transport prior to September 30, 2005. Civello

admitted during his testimony that merely because a person was working modified duties did not mean that the person was not an employee. In addition, Civello testified that he intended for all Lanter Transport employees to become LTI Trucking employees. While the Lanter Transport employees were given an application to complete, the application was merely a formality. Many Lanter Transport employees became LTI Trucking employees on October 1, 2005, without first filling out an employment application. Civello testified that his company stepped into Lanter Transport's locations and took "over as if nothing changed." His intent was a smooth and seamless transition with all Lanter Transport's employees being included as LTI Trucking's employees. He testified that he believed that everyone who was employed with Lanter Transport had become employees of LTI Trucking after the transition.

¶ 57 Consistent with Civello's intention, Mays did not tell anyone that they were not to come into work on Monday, October 3, 2005, and he had full knowledge of Renner's and Miller's work assignments. He spoke with the plaintiffs each day at work after the transition, and he never told them not to work or to go home. LTI Trucking never informed the plaintiffs that they were not going to be LTI Trucking employees or would be treated differently than all of the other Lanter Transport employees.

¶ 58 At the time of the acquisition, Renner was employed full-time as a shop assistant and Miller was employed part-time as an office clerical worker. The plaintiffs performed their job duties both before and after the acquisition. LTI Trucking maintained that the plaintiffs must have been performing work for Lanter Transport after the transition, but Civello plainly testified that Lanter Transport discontinued operations and no longer existed on Friday, September 30, 2005. Therefore, the only entity that Renner and Miller could have worked for after that date

was LTI Trucking. Under the facts of this case, the circuit court's finding that Renner and Miller were employees of LTI Trucking after September 30, 2005, was not against the manifest weight of the evidence.

¶ 59 The evidence further supports the circuit court's finding that the plaintiffs were subsequently discharged from their employment with LTI Trucking because they had exercised their rights under the Workers' Compensation Act. The testimony of Mays and Civello supports a finding that LTI Trucking terminated the plaintiffs because of their workers' compensation claims. The plaintiffs were working and performing services for LTI Trucking as employees before Mays and Civello discussed the plaintiffs' workers' compensation claims on Wednesday, October 5, 2005. After the discussion, the plaintiffs were terminated the next day. The termination of an employee for exercising his rights under the Workers' Compensation Act is against the public policy of this state. *Kelsay v. Motorola, Inc.*, 74 Ill. 2d 172, 181-82, 384 N.E.2d 353, 357 (1978). Under these facts, the circuit court's judgment in favor of the plaintiffs for retaliatory discharge is not against the manifest weight of the evidence. At best, LTI Trucking has established a different way to view the evidence. It has not established that the trial court's view of the evidence was unreasonable.

¶ 60 CONCLUSION

¶ 61 For the foregoing reasons, the judgment of the circuit court is hereby affirmed.

¶ 62 Affirmed.