

**COURT OF APPEALS  
DECISION  
DATED AND RELEASED**

**SEPTEMBER 4, 1996**

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

**No. 96-0920-FT**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT III**

**MICHAEL LOTTMAN and  
PEGGY LOTTMAN,**

**Plaintiffs-Appellants,**

**v.**

**CITY OF RIVER FALLS and  
WAUSAU INSURANCE COMPANY,**

**Defendants-Respondents.**

APPEAL from a judgment of the circuit court for St. Croix County:  
ERIC J. LUNDELL, Judge. *Affirmed.*

Before Cane, P.J., LaRocque and Myse, JJ.

PER CURIAM. Michael and Peggy Lottman appeal a summary judgment dismissing their action against the City of River Falls in which Michael sought lost wages and Michael and Peggy both sought damages for

mental distress arising out of Michael's constructive discharge.<sup>1</sup> The trial court concluded that damages for mental distress or injuries were preempted under the Worker's Compensation Act and that Michael's economic damages did not arise from constructive discharge, but rather from his unreasonable decision to quit his job without having exhausted the remedies set out in the employee handbook. Michael argues that outstanding issues of material fact preclude summary judgment on the issues of constructive discharge and whether he followed the employee handbook procedures.<sup>2</sup> We reject these arguments and affirm the judgment.

We review a summary judgment without deference to the trial court, applying the same methodology. *St. John's Home of Milwaukee v. Continental Casualty Co.*, 147 Wis.2d 764, 782, 434 N.W.2d 112, 119 (Ct. App. 1988). The City is entitled to summary judgment only if there is no genuine issue of material fact. See § 802.08(2), STATS.

All of the alleged economic damages resulted from Lottman quitting his job. Lottman argues that he was constructively discharged, resulting in lost wages. To establish constructive discharge, Lottman must show that his working conditions were so intolerable that a reasonable person would be compelled to resign. *Chambers v. American Trans. Air, Inc.*, 17 F.3d 998, 105 (7th Cir. 1994). An employee may not be unreasonably sensitive to his working environment and must seek redress while remaining on his job unless confronted with an aggravating situation. See *Brooms v. Regal Tube Co.*, 881 F.2d 412, 423 (7th Cir. 1989).

Assuming all of the facts alleged in the complaint are true and construing all of the facts and inferences stated in the supporting papers in the light most favorable to Lottman, the City was entitled to judgment as a matter of law. The specific harassment cited in Lottman's complaint and detailed in his

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<sup>1</sup> This is an expedited appeal under RULE 809.17, STATS.

<sup>2</sup> The appellants do not raise any issues challenging the dismissal of their claims for mental suffering. The trial court properly concluded that the worker's compensation law provides the exclusive remedy for Michael's alleged mental injuries and the law recognizes no cause of action by a wife against her husband's employer for mental suffering she incurred as a result of his mistreatment at work.

answers to the City's interrogatory establish as a matter of law that a reasonable person would not have felt compelled to quit before following the procedures outlined in the employee's handbook. Lottman alleged harassment over a five-year period, specifically that his foreman would not allow him to talk on the truck radio, called him a nickname he did not like, called him a vulgar name, told another worker that he could teach a monkey to do Lottman's job, stated that he couldn't stand Lottman, gave Lottman instructions to perform his job in a different manner than other supervisors had instructed Lottman, and gave Lottman the "silent treatment." He also complained that the City had given him an unjustified letter of reprimand. These specific complaints, while they indicate an unfriendly workplace and a serious personality conflict between Lottman and his leadman, do not depict such intolerable working conditions that a reasonable person would quit his job before exhausting the redress available under the employee's handbook. Although Lottman orally complained to supervisors about his leadman or foreman on two occasions during a five-year period, Lottman never filed a grievance with the City and never took his complaints to the city administrator or the common council as required by the employee's handbook. Therefore, as a matter of law, the economic damages suffered by Lottman were not caused by constructive discharge and the City was entitled to judgment as a matter of law.

*By the Court.* – Judgment affirmed.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.