COURT OF APPEALS
DECISION
DATED AND FILED

August 10, 2004

Cornelia G. Clark
Clerk of Court of Appeals

Appeal No. 03-2263 **Cir. Ct. No. 02CV000471**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT III

LARRY CHAPMAN,

PLAINTIFF-RESPONDENT,

V.

BOARD OF EDUCATION OF THE SCHOOL DISTRICT OF THE MENOMONIE AREA,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Eau Claire County: WILLIAM M. GABLER, Judge. *Reversed.*

Before Cane, C.J., Hoover, P.J., and Peterson, J.

¶1 HOOVER, P.J. The Board of Education of the School District of the Menomonie Area appeals a summary judgment concluding that the board had breached a contract with Larry Chapman by denying him early retirement benefits.

We determine Chapman is ineligible for the benefits because he did not retire from the district, and we therefore reverse.

Background

¶2 The relevant facts are undisputed. Chapman began working for the district in 1989. On May 30, 1993, he signed a two-year administrator's contract. The contract was retroactive to July 1, 1992, and was to expire June 30, 1994. The contract contained, in relevant part, a provision regarding vested early retirement benefits as well as a provision on termination of the contract. In June and July 1993, Chapman met with district officials multiple times concerning his job performance.

¶3 On August 11, 1993, Chapman sent a letter of resignation to the board, seeking to be released from the contract effective September 6, 1993. Among other reasons, Chapman explained that he had been offered—and had accepted—a job in Illinois. On September 14, 1993, the board notified Chapman that they had accepted his resignation. Chapman relocated to Illinois and began working there. Chapman was given a "vested retirement certificate" indicating he should contact the district in writing to begin collecting benefits.[1]

[1] The dissent contends that if we consider Chapman's actions in determining how he terminated his employment, we should also consider the board's actions "in fairness." Dissent, ¶22 n.2. However, the board's action of issuing this vested retirement certificate was already considered by the circuit court, which determined "I think an organization such as the School District of the Menomonie area could make an honest mistake and change its mind." The circuit court determined estoppel did not apply. This determination is not challenged on appeal and is therefore not before this court.

(continued)

¶4 On July 27, 2000, Chapman sent a letter to the district superintendent indicating he had retired on June 30, 2000, from his job in Illinois and was seeking his retirement benefits under the contract with the board. On July 17, 2001, the accounting coordinator informed Chapman he would be receiving those benefits, which included health insurance. Chapman responded that he had adequate insurance from his Illinois position and proposed the board provide a lump-sum cash buyout of the insurance benefit.

¶5 After consultation with counsel, the district administrator informed Chapman on September 24, 2001, that he was not eligible for the retirement benefits because he had resigned, not retired. On October 11, 2001, Chapman responded that he would pursue legal action.

¶6 Chapman alleged in his suit that the board breached the employment contract when it refused to pay his retirement benefits because he had "retired" from his employment with the board in 1993. In addition, he argued that he had a WIS. STAT. ch. 109[2] wage claim and was therefore entitled to attorney fees. The board denied that it breached the contract and argued the wage claim was barred by the statute of limitations. Chapman moved for summary judgment.

In addition, we cannot embrace the dissent's statement that Chapman was "frank" about taking another job elsewhere. ***Id.*** This implies that Chapman was completely forthright but the record is, at best, ambiguous in this regard. For example, Chapman was evidently actively seeking new employment as early as February 1993. Despite wishing to relocate to Illinois, he nonetheless agreed to a two-year contract with the board but then, less than three months after signing it, sought to leave the district.

[2] All references to the Wisconsin Statutes are to the 2001-02 version unless otherwise noted.

¶7 The circuit court implicitly concluded that Chapman had retired from the district and determined that he was entitled to benefits under the contract. It concluded that the claim qualified as a wage claim and that the statute of limitations did not bar the action. The court granted Chapman's motion, awarding him the retirement benefits, interest, and attorney fees. The board appeals. We reverse. We conclude that Chapman is not entitled to remuneration because he did not retire as contemplated by the contract. Therefore, we do not reach the wage claim or statute of limitations arguments. *See* ***Gross v. Hoffman***, 227 Wis. 296, 300, 277 N.W. 663 (1938) (only dispositive issues need be addressed).

Discussion

¶8 We review summary judgments de novo, using the same methodology as the circuit court. ***Green Spring Farms v. Kersten***, 136 Wis. 2d 304, 315, 401 N.W.2d 816 (1987). The interpretation of a contract presents us with a question of law, which we also review de novo. ***Deminsky v. Arlington Plastics Mach.***, 2003 WI 15, ¶15, 259 Wis. 2d 587, 657 N.W.2d 411. The objective in construing a contract is to ascertain the parties' intent from the contractual language. ***Waukesha Concrete Prods. Co. v. Capitol Indem. Corp.***, 127 Wis. 2d 332, 339, 379 N.W.2d 333 (Ct. App. 1985). If the contract is plain and unambiguous, we construe the contract according to its plain meaning even though a party may have construed it differently. ***Id.***

¶9 The contract between Chapman and the board states, in relevant part:

> 5.
>
> ….
>
> e. EARLY RETIREMENT BENEFIT. If ADMINISTRATOR elects to retire early, DISTRICT shall provide the following benefits:

> (1) … Vested retirement in part shall be provided where three full years of experience of service in the district would equal one year of retirement benefits stipend plus one year of health/medical insurance.
>
> ….
>
> 13. TERMINATION AND NONRENEWAL. This employment contract may be terminated by mutual agreement of the parties, by ADMINSTRATOR upon sixty (60) days' written notice of resignation to DISTRICT, … by ADMINISTRATOR upon retirement, and by DISTRICT for cause.

¶10 Both sides agree that the contract is poorly drafted in that it fails to define many of the key terms, including "retire" or "retirement." Because of this draftsmanship, the parties have dedicated considerable time to defining "retire." At oral argument, Chapman advocated that the definition of "retire" is synonymous with "quit." This interpretation is based on the purported common understanding of the word as well as Chapman's interpretation of the supreme court's decision in ***Bruno v. Milwaukee County***, 2003 WI 28, ¶13 n.5, 260 Wis. 2d 633, 660 N.W.2d 656.[3] The board's definition is narrower, suggesting one must stop working—and at the very least one must not transfer to a similar position elsewhere—before being considered retired.

¶11 If the contract is plain and unambiguous, we construe the contract according to its plain meaning even though a party may have construed it differently. ***Waukesha Concrete***, 127 Wis. 2d at 339. "Contractual language is

[3] ***Bruno v. Milwaukee County***, 2003 WI 28, ¶13 n.5, 260 Wis. 2d 633, 660 N.W.2d 656, however, "rests on an application of the definition in the [county] code itself." The supreme court used the dictionary definition of retire to point out a flaw in the court of appeals' prior decision in the case, not to define the word.

ambiguous only when it is reasonably and fairly susceptible to more than one construction." ***Dieter v. Chrysler Corp.***, 2000 WI 45, ¶15, 234 Wis. 2d 670, 610 N.W.2d 832 (citation omitted). This is the situation here. Although we think Chapman's oral argument position—that retirement equals quitting—is overbroad, he also relied on the dictionary definition quoted by the ***Bruno*** court. The board's definition—that retirement implies one will stop working, not trade a present position for a similar one elsewhere—is a fair interpretation of "retire."[4] Thus, with competing, reasonable definitions for the word, we are faced with an ambiguity that requires us to turn beyond using the common and ordinary usage.

¶12 Words in a contract are generally given their plain and ordinary meaning. ***North Gate Corp. v. National Food Stores, Inc.***, 30 Wis. 2d 317, 321-22, 140 N.W.2d 744 (1966). Further, we must also avoid constructions that render portions of a contract superfluous. ***Stanhope v. Brown County***, 90 Wis. 2d 823, 848-49, 280 N.W.2d 711 (1979) ("Other things being equal, a construction which gives reasonable meaning to every provision of a contract is preferable to one leaving part of the language useless or meaningless."). It is for this reason that Chapman's definition is too broad. To say retiring is the same as quitting would render much of paragraph 13 of the contract meaningless—there would be no reason to detail how the administrator can terminate the contract since "quitting" would be all encompassing.

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[4] The dissent disagrees, considering the board's definition to be self-serving. Dissent, ¶29. Be that as it may, the board's definition is found in a recognized dictionary. "Retire" means "To withdraw from one's occupation, business, or office; *stop working*." THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE 1488 (4th ed. 2000) (emphasis added). In this same dictionary, "retired" means "Withdrawn from one's occupation, business, or office; *having finished one's active working life*." ***Id.*** (emphasis added). These definitions demonstrate two points. First, the word "retire" is susceptible to multiple meanings, including the one advanced by the board. Second, the "plain meaning" of the word is really not so plain.

¶13 For this same reason, whatever "retirement" means—and we think it difficult to give it a singular "plain meaning"—it must mean something other than "resignation" or "mutual agreement" in this contract. Any shared or overlapping definition renders one term surplusage.

¶14 It appears that Chapman was attempting to resign. His letter to the board stated: "I am resigning for the following reasons." He did not, however, give sixty days' notice as the contract requires. But he also sought "to be released from [his] contract." He neither proposed nor sought retirement.[5] The board agreed to his release, terminating Chapman's relationship with the board. In other words, the parties mutually agreed to abandon their contractual obligations to each other.

[5] According to WEBSTER'S THIRD NEW INT'L DICTIONARY 1939 (unabr. 1993), "retire" means "to withdraw from office, public station, business, occupation or active duty" while retirement means "withdrawal from office, active service, or business." From these definitions, the dissent concludes retire "means nothing more than withdrawal from office" and "Chapman did just that: he withdrew from his administrator's position during his period of employment." Dissent, ¶25. However, these dictionary definitions yield multiple meanings. Chapman may have withdrawn from his *office* in Menomonie, but he did not withdraw from his *occupation* or *active service* as an administrative professional for a school district.

BLACK'S LAW DICTIONARY 1316-17 (6th ed. 1990), quoted in passing by the dissent at ¶24, is similarly vague. It defines retirement as "Termination of employment, service, trade or occupation upon reaching retirement age, or earlier at election of employee." "Termination of employment," without a reference point, could mean termination from one employer, a definition beneficial to Chapman, or it could refer to termination of all employment, the definition advocated by the board. Moreover, Chapman did not terminate his "trade or occupation" when he went to Illinois, but merely changed his location.

Incidentally, BLACK'S LAW DICTIONARY 1317 (7th ed. 1999), changes the meaning, defining retirement as "Voluntary termination of one's own employment or career, esp. upon reaching a certain age." This definition, applied to this case, has the same flaws as the definition in the sixth edition.

¶15 Under the contract, mutual agreement and resignation are alternatives to retirement. Therefore, whatever definition we would give to "retire" or "retirement," it could not include mutual agreement or resignation. Because Chapman and the board mutually agreed to end their relationship, Chapman did not retire from the district in 1993. Paragraph five only allows collection of retirement benefits if the employee retires, so Chapman is not entitled to those benefits, even if partially vested, because he has not fulfilled the condition precedent.[6]

¶16 At oral argument, however, Chapman also contended that the contract fails to specify from where he must retire and when he must collect his retirement benefits. Therefore, although he left the Menomonie district in 1993, he retired early from the Illinois district in 2000, so he contends he can now collect early retirement benefits from the Menomonie district pursuant to his contract.

¶17 We question whether the contract would still remain in force once Chapman asked to be released from it. Ending the contractual employment relationship by mutual agreement to terminate a contract would generally relieve both parties of any and all obligations to each other under the contract. *See* 17A AM.JUR.2D *Contracts* § 535 (2004). The contract would not, therefore, be in effect to govern future retirement from another location.

¶18 Moreover, we think it implicit that the early retirement must be from the Menomonie school district. The contract existed to detail the responsibilities Chapman and the board had to each other and contains no reference to some third

[6] Chapman argues that something vested, by definition, cannot be subject to a condition precedent. This argument, however, fails to account for the "partially" qualifier.

future party or inchoate event. To take this employment contract and make any provision—early retirement or otherwise—contingent on something Chapman might do at some other place, at some other time, with some other employer creates an almost impossible burden on the district to prepare for any and all possible contingencies. Whatever was contemplated by the parties in negotiating the contract, surely this uncertainty was not part of the bargain. After all, benefits are generally provided as an incentive to stay with an employer, not as an incentive to transfer to a new one.

¶19 It is also implicit that early retirement benefits are to be paid upon early retirement.[7] Benefits are uncollectible after age sixty-five, so there is at least no indefinite postponement of collection. In addition, one of the benefits provided is health/medical insurance, provided by the plan in effect for the district's employees. This implies collection of benefits upon early retirement during the life of the contract. It seems unlikely that a former employee, coming back to the district after a period of absence, would qualify for participation in an employee's plan. Also, during the life of the contract, the district can reasonably be required to ensure that there is a health plan in place. It would, however, be unreasonable to assume that the district can or should hold open a plan or guarantee the availability of insurance for seven, ten, or—in the district's example, forty—years. Those future costs are simply too speculative.

¶20 In this contract, early retirement cannot mean mutual agreement and it cannot mean resignation. Retirement must be from the Menomonie district and

[7] Because we conclude retirement under the contract in this case must be from the Menomonie school district—and because we have concluded Chapman did not retire from the district—it becomes irrelevant when the benefits are to be paid.

nowhere else. Chapman left the district by mutual agreement, not retirement, and he is not entitled to collect retirement benefits for retiring from the Illinois district.[8]

By the Court.—Judgment reversed.

Not recommended for publication in the official reports.

[8] Although we do not reach the wage claim issue by virtue of our holding, the dissent believes the two-year statute of limitations under WIS. STAT. § 109.09 began to run at the same time as a breach of contract action in September 2001, when the board finally rejected payments. Dissent, ¶¶34-36.

Assuming arguendo that the retirement benefits are a wage for purposes of WIS. STAT. ch. 109, the dissent's conclusion appears premised on the idea that an employee can elect to receive retirement benefits at any time after retirement. Although it is true that the contract does not specify when benefits should be paid, the dissent does not explain why retirement benefits should not be paid upon retirement.

This is important because the wage claim statute does not date claims based on a breach of contract. Rather, an employee has a wage claim if an employer fails to pay the wage within thirty-one days of the employee earning that wage. WIS. STAT. § 109.03(1). Chapman's previous service in the district would be what entitles him to a series of monthly retirement payments. Thus, if Chapman retired in 1993—say, September 14, when the Board agreed to release him from the contract—the dissent does not explain why the claim did not accrue as of October 16, 1993, the thirty-second day after retirement and seemingly the latest the board could wait to begin payments.

¶21 CANE, C.J. (*dissenting*). I respectfully dissent. This case involves a deceptively simple question: did Chapman retire as that term is used in his employment contract? I would affirm the circuit court's summary judgment concluding that the Menomonie School District Board of Education breached its employment contract with Larry Chapman by failing to pay his vested early retirement benefit.

¶22 In concluding that Chapman is not entitled to the early retirement benefits, the majority stresses Chapman terminated his employment contract by mutual agreement. But by emphasizing the manner in which the contract was terminated the majority has effectively rewritten the contract. The contract does not require Chapman to invoke specific retirement language when he elects to retire early.[9] The means by which Chapman terminated his employment contract with the board is irrelevant.[10] To receive early retirement benefits, the contract requires Chapman to meet two criteria: (1) that he serves at least three years with the board and (2) that he retires early. There is no dispute as to the first condition. Thus, the focus should turn on the second condition, namely, whether Chapman retired.

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[9] In fact, even the board conceded at oral argument that had Chapman used the magic word "retirement" in his letter of resignation, it still did not mean he retired. The board stated that it must take a closer look at the circumstances to determine whether Chapman retired in a bona fide manner.

[10] If, however, Chapman's actions in terminating the contract are relevant to determining whether he retired, in fairness so too should the board's actions after Chapman terminated the contract. In Chapman's 1993 letter of resignation, he was frank that he was taking another job in Illinois. Even with this knowledge, the board assured Chapman he was entitled to his one-year vested early retirement benefit until sometime in 2001.

I. STANDARD OF REVIEW

¶23 Contractual language, when not specially defined in the contract itself, is to be construed according to its plain meaning. *See* ***Waukesha Concrete Prods. Co. v. Capitol Indem. Corp.***, 127 Wis. 2d 332, 339, 379 N.W.2d 333 (Ct. App. 1985). It may be significant that a contract uses different words in a given section (such as "retirement," "resignation," and "mutual agreement"), but the use of different words does not compel the conclusion that differing meanings lurk beneath their respective labels. It seems to me that we should not engage in contract interpretation whereby "meaning" is assigned to words without at least inquiring into what the plain meanings of the words are.[11] This is where my analysis begins.

II. CONTRACT INTERPRETATION

A. Plain Meaning of "Retire"

¶24 Because the contract does not define the term retire, we look to definitions in a recognized dictionary to determine what retire means. *See* ***Just v. Land Reclamation, Ltd.***, 155 Wis. 2d 737, 745, 456 N.W.2d 570 (1990). As the supreme court in ***Bruno v. Milwaukee County***, 2003 WI 28, ¶13 n.5, 260 Wis. 2d 633, 660 N.W.2d 656, referred to Webster's definition to give meaning to the word "retire," so will I. Retire means "to withdraw from office, public station, business, occupation, *or* active duty." WEBSTER'S THIRD NEW INT'L DICTIONARY 1939 (unabr. 1993) (emphasis added); *see* ***Bruno***, 260 Wis. 2d 633, ¶13 n.5.

[11] After all, as is the case with this contract, a contract could be drafted that uses multiple words with synonymous meanings. Yet, even realizing that multiple words have synonymous meanings requires at least a cursory examination of what those meanings are.

Further, Webster's defines "retirement" as "withdrawal from office, active service, *or* business." WEBSTER'S, *supra,* at 1939 (emphasis added). Similarly, BLACK'S LAW DICTIONARY 1316-17 (6th ed. 1990), defines retirement as "Termination of employment, service, trade or occupation upon reaching retirement age, or earlier at election of employee."

¶25 Plainly, according to both the supreme court's observation in ***Bruno*** and the ordinary dictionary definition, "retire" means nothing more than withdrawal from office. Using this plain meaning of retire, I conclude Chapman did just that: he withdrew from his administrator's position during his period of employment. The parties could have contracted for a different meaning than this plain one, but they did not. Thus, if we remain faithful to the plain meaning of retire, Chapman's contention at oral argument that retire essentially means "to quit," although curious at first blush, is nonetheless correct.

B. Surplusage

¶26 Does this conclusion render other contract terms surplusage? The majority answers in the affirmative, asserting it renders the contract's references to "resignation" and "mutual agreement" in ¶13 meaningless. *See* majority op., ¶¶13, 20. Turning first to a plain meaning analysis of ¶13's reference to "resignation" and "mutual agreement," Webster's defines "resignation" as "the act or fact of resigning something (as a claim, possession, office)." WEBSTER'S THIRD NEW INT'L DICTIONARY 1932 (unabr. 1993). "Resign" means "to give up deliberately**:** renounce by a considered or formal act," and "to give up, relinquish, or forswear one's office, rank, membership, post, or charge esp. formally and definitely." ***Id.*** There is no doubt what "mutual agreement" means: I want out and, in some manner, you consent to let me out.

¶27 Viewing these plain meanings, I agree that the terms "retirement" and "resignation" (and to some extent "mutual agreement") are overlapping. The meanings of retirement and resignation are practically the same. Any distinction between withdrawing from office (retirement) and giving up office (resignation) is slight and immaterial. And, invariably, however the administrator leaves the office, that action will likely involve some degree of agreement by the board.

¶28 Bearing in mind that these are not terms that lend themselves to mutually exclusive definitions, now what? To declare these terms absolutely must mean something distinct ignores the legal standard the surplusage is to be avoided only when reasonably possible. *See* ***Nelson v. Boos***, 7 Wis. 2d 393, 399, 96 N.W.2d 813 (1959). It appears to me that to give these terms their own meaning would require imposing significant, additional, not to mention contorted, meaning to the terms. To illustrate this point, consider the board's attempt to define "retirement" at oral argument. The board initially argued that "retirement" means ceasing work. So, retirement is the removal of oneself from being a productive member of the working class? Apparently not, because the board then conceded that retirement does not always mean ceasing work, as retirement also occurs where one ceases work in a particular career and begins work in another career. So, retirement is occupational in nature? Well, maybe not, because the board acknowledged retirement nevertheless might occur when one temporarily ceases work in a particular career, takes time off, and then resumes working in that same career after finding retirement unfitting. Further, the board indicated that there is a strong argument to be made that retirement occurs when one does not cease work and does not cease work in a particular career, but when one merely switches from the public to the private sector.

¶29 The board has added what can only be called convenient, self-serving connotation to what it maintains retirement should mean. But, considering the board's attempt to define retire, I am not surprised with the majority's frustration with giving "retirement" its own singular meaning. Majority op., ¶13. What is more, I join their frustration and will not add to the confusion that is the board's definition. Instead, I conclude that it is not reasonably possible to give retirement its own, distinct meaning in this contract. Therefore, the overlapping meaning of retirement, resignation, and mutual agreement is not a bar to concluding that retire means nothing more than withdrawal from office.

C. Usefulness

¶30 But what about usefulness? If retirement is synonymous with "quitting," the majority contends "there would be no reason to detail how the administrator can terminate the contract since 'quitting' would be all encompassing." Majority op., ¶12.

¶31 However, despite the whole retirement issue, the all-encompassing reason of quitting is still a viable option for terminating the employment contract. Note that no matter what retirement means, the contract can *always* be terminated by resignation (i.e. to quit), thereby *always* obviating the need to seek mutual agreement or retirement. The fact is that the contract presents a scale of tapering options for its termination, at the bottom of which is the least onerous alternative of resignation. Thus, the options for terminating this contract do not have equal, practical usefulness in the first place.

II. ELECTION

¶32 The board has also advanced a peculiar argument concerning the "election" of benefits. The board contends that when an administrator elects to retire early, so too must the administrator elect to receive his or her early retirement benefits. Thus, even if Chapman retired, the board argues that because he did not elect to receive his benefits at that time, he has abandoned them.

¶33 However, the contract does not contain any language identifying what this election of benefits consists of, how or when it is to be made. Further, I also agree with Chapman that the board's interpretation makes no sense. Under the board's reasoning, once the contract was terminated in September 1993, Chapman's contractual right to elect to receive the early retirement benefit was extinguished. However, applying that reasoning, it is never possible to retire early within the period of the contract. Thus, under the board's interpretation, it would never be obligated to pay early retirement benefits. To say that would be an unreasonable, absurd, and unfair result would be an understatement.

III. STATUTES OF LIMITATIONS

¶34 Additionally, I am in agreement with the circuit court that Chapman filed his action within the six-year statute of limitations for breach of contract. Here, the breach did not occur until September 2001 when the board, contrary to its earlier conclusion, informed Chapman that it would not honor his right to the early retirement benefit. A cause of action for breach of contract accrues and the statute of limitations begins to run when the breach occurs. ***Messner Manor Assocs. v. Wisconsin Housing & Econ. Dev. Auth.***, 204 Wis. 2d 492, 498, 555 N.W.2d 156 (Ct. App. 1996).

¶35 Furthermore, I agree that Chapman's early retirement benefit constitutes wages under WIS. STAT. ch. 109.[12] Although retirement benefits are not specifically identified in the definition of wages, it does include "any other similar advantages agreed upon between the employer and the employee." WIS. STAT. § 109.01(3). The early retirement benefit is one of those similar advantages agreed upon in the contract between the board and Chapman.

¶36 Because Chapman filed the lawsuit on July 12, 2002, it was well within the two-year statute of limitations for wage claims and within the six-year statute of limitations for breach of contract. Thus, I would affirm the circuit court's granting summary judgment in favor of Chapman against the board.

IV. SUMMARY

¶37 In sum, I conclude the plain meaning of retire should control this case. Utilizing the commonplace rules of contract interpretation does not require deviating from retire's plain meaning of withdrawing from office. Therefore, I agree with the circuit court that the contract is unambiguous and the clear intent of the parties was to contract for a partially vested retirement benefit for Chapman if he stopped working for the board before his full retirement benefits became

[12] WISCONSIN STAT. § 109.01(3) states:

> **(3)** "Wage" or "wages" mean remuneration payable to an employee for personal services, including salaries, commissions, holiday and vacation pay, overtime pay, severance pay or dismissal pay, supplemental unemployment benefit plan payments when required under a binding collective bargaining agreement, bonuses and *any other similar advantages agreed upon between the employer and the employee* or provided by the employer to the employees as an established policy. (Emphasis added.)

operational. The early retirement benefit was vested to the extent that three years of service with the board created a vested right to one year of early retirement benefits. Chapman worked a number of years entitling him to one year of retirement benefits and thereafter retired. Nothing in the contract required him to make an election at that time to receive those benefits. And because he has timely filed a claim for these benefits, I conclude he is entitled to them.