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APPROVAL OF THE APPELLATE DIVISION

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-5188-10T4

CASEY MANN,

Plaintiff-Appellant,

v.

STAPLES, INC.,

Defendant-Respondent.

Argued March 28, 2012 - Decided August 1, 2012

Before Judges Cuff, Lihotz and St. John.

On appeal from the Superior Court of New Jersey, Law Division, Mercer County, Docket No. L-1849-08.

Jeffrey J. Waldman argued the cause for appellant.

Aaron Warshaw (Seyfarth Shaw, LLP) of the New York bar, admitted pro hac vice, argued the cause for respondent (Anjanette Cabrera (Seyfarth Shaw, LLP), attorney; Ms. Cabrera and Brian Murphy (Seyfarth Shaw, LLP) of the New York bar, admitted pro hac vice, on the brief).

PER CURIAM

Plaintiff Casey Mann appeals from the summary judgment dismissal of her complaint against her employer, defendant Staples, Inc. The motion judge found plaintiff failed to present a prima facie case evincing sexual harassment or

retaliation. On appeal, plaintiff maintains the judge erred in dismissing her complaint, arguing defendant's anti-harassment policies were inadequate and not properly implemented, allowing a hostile work environment to develop, as defendant's deficient practices caused her to experience continued sexual harassment, which should have ended following her first accusation. Plaintiff also maintains the judge erroneously ignored her retaliation claim alleging her work hours were reduced after reporting her co-workers' harassing conduct. Following our review, we are not persuaded and affirm.

We present the facts in a light most favorable to plaintiff, the party opposing summary judgment. Livsey v. Mercury Ins. Grp., 197 N.J. 522, 525 n.1 (2009); Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 523 (1995).

In 2007, while plaintiff worked as a part-time sales associate in defendant's Princeton store, a full-time sales associate, Ricky Brown, began "a pattern of systematic sexual harassment." After plaintiff extended Brown a ride home, he began to "follow [her] around asking [her] out and telling [her] to touch his guns (arm muscles)." Brown made further inappropriate comments to plaintiff, including, she "had nice legs," "looked hot," and "looked good in [a] dress she was wearing." Plaintiff informed Brown she had a boyfriend, asked

him to stop bothering her and to just do his work. She did not immediately report these actions as harassing.

Sometime in May 2007, plaintiff was aiding Brown in the completion of a "certification." The two were in a closed area of the store known as the copy center, when Brown came up behind plaintiff, said "thank you" and attempted to kiss her on the lips. However, she turned away and he kissed her cheek. Plaintiff told Brown she was offended "and he was somewhat apologetic about it, but he thought it was funny." At the prompting of a co-worker, plaintiff orally reported the incident to the store's sales manager, Mike Benci, "the next time she saw him," "like a week later." Although Benci told Brown to "leave [plaintiff] alone," she felt "[h]e didn't really take it seriously. He just told [plaintiff] he would tell [Brown] to knock it off."

Other instances of unwelcomed conduct by Brown occurred, ultimately prompting plaintiff to file a formal written complaint reporting the sexual harassment. For example, after the kissing incident, Brown crudely told plaintiff she "had a nice ass[,]" he "likes to watch her butt jiggle," and "asked her if she liked to 'take it from behind[.]'" Then in June 2007, while in the store, Brown "reached around [plaintiff] from behind" and attempted to squeeze her right breast, initiating

contact with her body. Plaintiff complained to Benci the next morning, stating she did not want to work with Brown anymore. Benci informed the general manager, Steve Cinkowitz, and the two supervisors spoke to plaintiff. Benci agreed not to schedule plaintiff during Brown's shift and reported her complaints to the regional human resource manager, Maureen Ostacher.

When these incidents between plaintiff and Brown occurred, defendant had in place an anti-harassment policy and complaint process. The policy, set forth in a nine-page document entitled "Harassment Prevention Policy," prohibited harassment of any kind and forbade retaliation against a victim in any form. The policy outlined specific procedures to be followed upon receipt of a verbal or written workplace harassment complaint. Defendant also provided an internet anti-harassment training program, which all new employees were to complete within the first week of employment. However, there was no system tracking showing which employees had actually completed the training. Further, supervisors were required to undergo an eight-hour live anti-harassment training session.

After Ostacher's discussion with Benci on June 21, 2007, she opened a formal investigation log, commenced interviews, and compiled a report regarding plaintiff's allegations. Ostacher first spoke to plaintiff, who related the difficulties she had

with Brown over the previous two months. On the same day, Ostacher questioned six other employees with regard to their observations of Brown's interactions with other employees. Mike Mihalow, plaintiff's boyfriend, related plaintiff complained to him many times about things Brown had said, but he did not include any specific complaints. Other employees observed Brown following some female co-workers in the store and witnessed him put his arm around Tiffany Ross; however, Ross did not confirm this and no one witnessed any inappropriate interactions between plaintiff and Brown. A few days later, Ostacher interviewed Brown, who generally denied he engaged in any harassing behavior with his co-workers.

At some point, management learned that Brown may not have received the workplace anti-harassment training. After concluding her investigation and consultation with Lynn Shilbey, who was another human resources manager, Ostacher recommended Brown receive verbal counseling and he was asked to acknowledge receipt and understanding of another copy of the company's Harassment Prevention Policy. Plaintiff's request to work a different shift from Brown was honored. Following this intervention, no additional problems arose.

In September 2007, plaintiff was scheduled to work less hours than she had previously received, so she accepted a part-

time position at Radio Shack. In October 2007, she consulted Benci and the new store manager, Bill Hartz, seeking more time. Plaintiff was told they would try to schedule her for additional hours, but there were limited part-time opportunities because of the lull following the back-to-school sales. Also, Hartz explained full-time employees, like Brown, were entitled to priority in scheduling.

Also, plaintiff acknowledged she had undertaken additional commitments, including college classes and physical therapy, which also limited her availability. Additionally, defendant had honored her request not to be scheduled during Brown's work shift. Defendant did offer plaintiff time at the Lawrenceville store three miles away, but she declined stating she "would only accept hours at the Princeton location[,]" even though she had previously worked in Lawrenceville and other stores.

On January 31, 2008, plaintiff complained about a harassing incident with her then immediate supervisor, Don Peterson. Peterson had ridiculed plaintiff's boyfriend and she told him to stop. Plaintiff began walking to the break room and Peterson followed her, scolding that she needed his permission prior to going to the bathroom, speaking to Benci, or doing anything else. Plaintiff began to cry and Peterson continued to curse at

her, calling her a "skank ass bitch[.]" During the exchange, plaintiff uttered retorts, using offensively course language.

Later, plaintiff informed Hartz she wanted to file a complaint. Hartz suggested both she and Peterson could be fired as a result of their conduct. Plaintiff proceeded with the complaint, which resulted in Peterson's discipline for violating defendant's policy against workplace violence. No further inappropriate behavior occurred.

Plaintiff filed her Superior Court complaint on July 18, 2008, alleging sexual harassment and a hostile work environment in violation of New Jersey's Law Against Discrimination (LAD), N.J.S.A. 10:5-1 to -49. Following discovery, defendant moved for summary judgment, which plaintiff opposed. The motion judge considered plaintiff's theories of liability, namely the negligent "implementation, monitoring and enforcement of its workplace harassment policy," and vicarious liability based upon Peterson's actions and retaliation.

The court found "as a matter of law, an employer is [not] automatically negligent if such [employee] training did not take place." The court further noted the incident with Peterson was a one-time incident, which defendant immediately addressed as a "breach of its workplace anti-violence policy." Finding the incidents with Brown and Peterson were remedied after the

complaints were made and managers became involved, so that no further harassment occurred, the motion judge concluded plaintiff failed to support her claims of negligence. Further, the court found plaintiff failed to establish a "prima facie case of retaliation" because the reduction in plaintiff's work hours occurred four months after she lodged her complaints, which was "indicative that there was not a causal connection between the report . . . and the reduction"; plaintiff was not the only employee affected by the limited work availability as defendant needed less workers during this time period; plaintiff received a raise in pay; plaintiff was offered more hours at another location, but declined; and plaintiff had other obligations limiting her availability. The judge granted defendant's motion for summary judgment, dismissing plaintiff's complaint with prejudice. Plaintiff appealed.

In our de novo review of a grant of summary judgment, we apply the same standard as the motion judge. Cerdeira v. Martindale-Hubbell, 402 N.J. Super. 486, 491 (App. Div. 2008). We examine the record to discern "whether there exists a 'genuine issue' of material fact that precludes summary judgment" or "whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational factfinder to

resolve the alleged disputed issue in favor of the non-moving party." Brill, supra, 142 N.J. at 540.

Therefore, plaintiff's version of the facts is assumed to be true and given the benefit of all favorable inferences. Id. at 536. Summary judgment is appropriate only where "the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to a judgment or order as a matter of law." R. 4:46-2(c). However, a court "may pick and choose inferences from the evidence to the extent that 'a miscarriage of justice under the law' is not created." Brill, supra, 142 N.J. at 536 (quoting R. 4:49-1(a)). To prevail on a summary judgment motion, defendant must show that plaintiff's claim was so deficient as to warrant dismissal of her action. See Butkera v. Hudson River Sloop "Clearwater," Inc., 300 N.J. Super. 550, 557 (App. Div. 1997).

On appeal, plaintiff maintains she presented material facts evincing a dispute for the jury's resolution, sufficient to overcome a grant of summary judgment. Specifically, she argues her proofs showed she suffered from a hostile work environment because defendant negligently implemented its workplace anti-harassment policy. Had defendant's policy been adequately

implemented, she contends Brown and Benci would have been properly trained, and "defendant [would] have taken prompt remedial measures after the first and second complaints about Brown[.]"[1] Plaintiff also maintains the motion judge erroneously determined she failed to demonstrate a casual link between her sexual harassment complaints and a reduction in work hours.

These claims are grounded upon the provisions of the LAD. The LAD, as remedial legislation, is designed to provide an effective means "to root out the cancer of discrimination[.]" Cicchetti v. Morris Cnty. Sheriff's Office, 194 N.J. 563, 588 (2008) (citing Fuchilla v. Layman, 109 N.J. 319, 334, cert. denied, 488 U.S. 826, 109 S. Ct. 75, 102 L. Ed. 2d 51 (1988)). The LAD prohibits employment discrimination is the form of harassment, "based on race, religion, sex, or other protected status, that creates a hostile work environment." Cutler v. Dorn, 196 N.J. 419, 430 (2008) (citing Lehmann v. Toys 'R' Us, Inc., 132 N.J. 587, 601 (1993)). Further, the LAD prohibits reprisals against anyone asserting rights granted under the LAD. N.J.S.A. 10:5-12(d). See also Quinlan v. Curtiss-Wright Corp., 204 N.J. 239, 259 (2010); Carmona v. Resorts Int'l Hotel, Inc., 189 N.J. 354, 369-70 (2007).

[1] Plaintiff acknowledges she abandoned her vicarious liability claim to proceed solely on a negligence theory of her hostile work environment claim.

In Lehmann, the Supreme Court "established the basic requirements for determining whether workplace acts of sexual harassment constitute prohibited discrimination under the LAD." Cutler, supra, 196 N.J. at 430 (citing Lehmann, supra, 132 N.J. at 603-04). Lehmann recognized a hostile work environment cause of action as a violation of the LAD's prohibition against workplace discrimination. Supra, 132 N.J. at 604. See N.J.S.A. 10:5-12(a).

"To state a claim for hostile work environment sexual harassment, a female plaintiff must allege conduct that occurred because of her sex and that a reasonable woman would consider sufficiently severe or pervasive to alter the conditions of employment and create an intimidating, hostile, or offensive working environment." Lehmann, supra, 132 N.J. at 603. For purposes of establishing a claim for hostile work environment sexual harassment under LAD:

> the test can be broken down into four prongs: the complained-of conduct (1) would not have occurred but for the employee's gender; and it was (2) severe or pervasive enough to make a (3) reasonable woman believe that (4) the conditions of employment are altered and the working environment is hostile or abusive.
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> [Id. at 603-04.]

The first element requires the harassment occurred because of a plaintiff's gender. Id. at 603. "When the harassing

conduct is sexual or sexist in nature, the but-for element will automatically be satisfied." Id. at 605. The second element assesses the severity and pervasiveness of the conduct, see Ellison v. Brady, 924 F.2d 872, 878 (9th Cir. 1991), and examines the frequency and totality of the harassing actions. Lehmann, supra, 132 N.J. at 607. In addition, a plaintiff must show the alleged conduct was "sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment." Ellison, supra, 924 F.2d at 876. See also Lehmann, supra, 132 N.J. at 608.

In the current matter, the applicable "reasonable woman" standard is an objective and not subjective standard. Id. at 612. "In making that showing, the plaintiff may use evidence that other women in the workplace were sexually harassed." Id. at 610.

To impute liability to a defendant-employer for acts of its employees under the LAD, "a plaintiff may show that an employer was negligent by its failure to have in place well-publicized and enforced anti-harassment policies, effective formal and informal complaint structures, training, and/or monitoring mechanisms." Id. at 621. However, "the existence of effective preventative mechanisms provides some evidence of due care on the part of the employer." Ibid. "[T]he absence of such

mechanisms" does not "automatically constitute[] negligence, nor [does] the presence of such mechanisms demonstrate[] the absence of negligence." Ibid. We have concluded that "a negligence-based theory of liability must be analyzed under traditional negligence principles, which draw upon notions of fairness, common sense, and morality." Cerdeira, supra, 402 N.J. Super. at 492.

> Employers that effectively and sincerely put five elements into place are successful at surfacing sexual harassment complaints early, before they escalate. The five elements are: policies, complaint structures, and that includes both formal and informal structures; training, which has to be mandatory for supervisors and managers and needs to be offered for all members of the organization; some effective sensing or monitoring mechanisms, to find out if the policies and complaint structures are trusted; and then, finally, an unequivocal commitment from the top that is not just in words but backed up by consistent practice.
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> [Lehmann, supra, 132 N.J. at 621 (citations omitted).]

To support her claim that defendant is not insulated from liability for her discrimination claim based on hostile work environment because defendant failed to implement an effective anti-sexual harassment workplace policy, plaintiff lists twelve assertions, arguing they are "material factual issues . . . concerning negligence" sufficient to allow the question of defendant's liability to be presented to the jury, as follows:

1. Defendant's mandatory anti-harassment training program, which every Staples employee must complete within 7 days of hire, was not given to Brown until after plaintiff's third complaint about him, about three months after his hire.
2. No monitoring/tickler system was in place to insure that the training program was completed by Brown.

3. Benci, defendant's Sales Manager was told three times by [plaintiff] about the harassment by Brown. After the first time, when Brown kissed her, Benci laughed at her.

4. Benci did not abide by [defendant's] own policy, as to the kissing complaint, that harassment complaints be reported to Human Resources.

5. The investigation was negligently carried out. Ample evidence was presented to Ostacher of incidents with other employees. Mihalow told Ostacher, who conducted [the] investigation, that Casey complained to him and followed other employees around store.

6. Ostacher interviews Brown and does not confront him with [plaintiff]'s allegations. [Defendant's] own investigation protocol says she should have.

7. Brown tells Ostacher that he did not "recall saying anything of a sexual nature[."] Importantly, he did not deny it; he simply stated that he did not recall it.

8. The "fix" was to separate them in the workplace, give Brown training [he should] have received in first place, and to give Brown preferential scheduling, and notably, not fire him.

9. In separating them, [plaintiff]'s hours suffered significantly.

> 10. Following the floor and backroom incidents, where Peterson screamed at [plaintiff], threatened her, and called her a skank ass bitch, she was told to come back to work that day by Benci, who had full knowledge of the Brown incidents.
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> 11. After [plaintiff] complained, the Store Manager says if you do, you'll both (Peterson and [plaintiff]) be fired.
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> 12. Peterson is given no suspension, no firing; just a final written warning.
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> [(emphasis and citations to the record omitted).]

The initial nine points address Brown's conduct. We note the third, fourth, fifth, and ninth contentions are not supported by the record. Plaintiff informed Benci of the kissing incident, not on the day it occurred, but "whenever I saw him again" which was "like a week later." The individual named "Mike" whom plaintiff complained to the day Brown kissed her was Mihalow, her boyfriend, not Benci, her supervisor. Also, although plaintiff suggested she believed Benci did not take her complaint regarding the kissing incident seriously, notwithstanding Benci's assurance he would talk to Brown and "tell him to knock it off[,]" she never stated Benci laughed at her. Rather, plaintiff's testimony described Brown's actions stating "[t]hat he tried to kiss me. Then he kind of thought it was funny."

It is undisputed that defendant could not prove Brown completed the on-line anti-harassment training within the first week of employment (items one and two). However, this is not dispositive of negligence. See Lehmann, supra, 132 N.J. at 621 (discussing impact on employer liability when supervisors have not been properly trained). Moreover, defendant's store department heads, managers, and human resource personnel were fully and properly trained. Importantly, plaintiff was instructed on the policy and procedures to report harassment without fear of retaliation.

Plaintiff has not offered any facts showing she or other female employees were dissuaded from or feared retaliation as a result of initiating complaints. Plaintiff's suggestion that Benci did not take her concerns seriously is completely unfounded and her suggestion that Hartz stated she, along with Peterson, could face discipline, was based on her use of foul language and lack of self-control, not an effort to deflect harassment investigations.

Further, plaintiff has not shown defendant's failure to comply with the five elements identified in Lehmann, supra, 132 N.J. at 621. In fact, the effectiveness of defendant's harassment prevention policy was borne out following plaintiff's

formal complaint: Brown was disciplined and no further inappropriate conduct occurred.

Plaintiff argues defendant's negligence can be evinced from Brown's unchallenged harassing conduct toward other employees. See Cavuoti v. N.J. Transit Corp., 161 N.J. 107, 121 (1999). However, aside from Brown's inappropriate thank-you kiss, defendant's management employees had received no prior information or complaints from any employees that Brown was sexually harassing his female co-workers. As noted above, Mihalow identified Ross as the recipient of Brown's unwelcomed fraternization, but she denied she was victimized. Statements by the other employees discuss Brown's inappropriate workplace conduct, which were not acts of sexual harassment, and also show management's swift corrective response.

Plaintiff inaccurately suggests she advanced three complaints before Benci took action. The record reveals plaintiff told Benci about Brown's attempted kiss about a week after the incident and Brown was told to "knock it off." The second incident involving the alleged attempt to squeeze plaintiff's breast occurred shortly thereafter and immediately triggered full implementation of defendant's anti-harassment policies and remedial procedures, ultimately resulting in Brown's discipline and the squelching of further offensive

conduct. We cannot find defendant demonstrated a "level of willfulness, malice, or reckless disregard" to complained of discriminatory conduct or even a diffident acknowledgement of complaints presented by employee-victims. Rendine v. Pantzer, 141 N.J. 292, 313 (1995).

We locate no facts supporting plaintiff's contention that Ostacher's investigation was negligently performed. In fact, her review was timely and thorough, as each individual identified by plaintiff was interviewed in a single day, except for Brown, who was interviewed a few days later. Ostacher testified she asked open-ended questions about the issues when addressing each person, approaching the investigation in an unbiased manner. Admittedly, Ostacher did not specifically ask Brown whether he made the specific comments enumerated by plaintiff because she sought to preserve plaintiff's privacy. She did ask non-leading questions about the "sexual nature" of his conduct. Brown stated he did not recall ever making such statements and denied he "ever play[ed] with females." Plaintiff's suggestion that the use of different or better questions could have been asked does not show the investigation was improper or defendant was negligent.

Importantly, Ostacher could not obtain corroboration for plaintiff's assertions, despite questioning those plaintiff

identified as witnesses. Mihalow observed Brown's unwanted interactions with Ross, yet when asked, Ross denied the events. Also, plaintiff said co-worker Matt Podulichick saw the touching incident, however he did not reveal any such knowledge to Ostacher when interviewed. In the absence of corroborating witnesses to verify plaintiff's allegations, Ostacher consulted with Shilbey and determined appropriate responsive action, which included educating Brown on appropriate workplace behavior.

Further, plaintiff's suggestion that Brown's conduct warranted termination is an unsupported opinion. Faced with a claim of harassment, defendant's management reacted in a swift and appropriate manner. Based upon all facts, the decision to counsel and instruct Brown, rather than terminate his employment, was not an unreasonable exercise of business judgment.

We also reject the notion that Brown was given preferential scheduling and plaintiff's hours were reduced as a direct result of her complaints. First, plaintiff does not dispute work hours for all employees were reduced once school started. Plaintiff acknowledged human resources explained some of her co-employees were receiving fewer hours than she because of the lessened demand. Second, any preference in scheduling Brown before plaintiff occurred because he was a full-time employee and she

was a part-time employee. Third, defendant honored plaintiff's limited availability resulting from her desire not to work with Brown, her need to attend school and physical therapy, and her alternate employment schedule. Fourth, even with these significant limitations, defendant attempted to accommodate plaintiff further by offering her time in a near-by store, which she declined. We conclude plaintiff's assertions of material factual disputes regarding defendant's alleged negligence are simply not supported by the record.

Next, defendant's inability to show it timely trained Brown and Benci's failure to initiate a formal investigation when plaintiff told him of Brown's attempted kiss are insufficient to show defendant was negligent and liable under the LAD. Clearly, increased effectiveness results when all employees are properly trained. Although proof of Brown's training, if any, is absent, the record reflects all supervisory employees received training, which they followed. In describing the kissing incident, plaintiff described Brown as apologetic and Benci's reaction appears to be a measured response to the described events.

Unlike the employer in Cerdeira, supra, 402 N.J. Super. at 487, the facts in this matter show defendant had a specific policy prohibiting sexual harassment; trained its management personnel on these policies; made available a defined and

publicized procedure for a victim to present harassment complaints; completed a detailed process to investigate those complaints; and followed through with identifiable remedial and corrective action. As the Court noted in Cavuoti, supra, 161 N.J. at 121:

> A company that develops policies reflecting a lack of tolerance for harassment will have less concern about hostile work environment or punitive damages claims if its good-faith attempts include periodic publication to workers of the employer's antiharassment policy; an effective and practical grievance process; and training sessions for workers, supervisors, and managers about how to recognize and eradicate unlawful harassment.

In light of this standard, following review of the entirety of the record, we conclude plaintiff failed to support her claim that defendant's sexual harassment policies were not realistic protective measures for the benefit of its employees to trigger liability for a co-employee's harassing conduct. Consequently, summary judgment was properly granted.

Turning to the three points aimed at the Peterson incident, we also reject plaintiff's claims of error in the motion judge's review. We cannot agree the incident was sexually motivated. Plaintiff and Peterson were engaged in a heated argument including profane language. Peterson called plaintiff a "skank ass bitch," but nothing shows this conduct occurred because plaintiff was a woman. The incident was treated as a violation

of the workplace violence policy, prompting an immediate investigation, resulting in Peterson's discipline and no future incident. Defendant acted promptly and effectively to address and curb this untoward conduct.

We also disagree with plaintiff's argument that the record contains facts from which a reasonable jury could find that the defendant retaliated against plaintiff in response to her assertion of rights under the LAD. The statute provides it is an unlawful employment practice

> [f]or any person to take reprisals against any person because that person has opposed any practices or acts forbidden under this act or because that person has filed a complaint, testified or assisted in any proceeding under this act or to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this act.
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> [N.J.S.A. 10:5-12(d).]

To establish a prima facie case of retaliation, a plaintiff must be (1) "engaged in a protected activity known to the employer," (2) "thereafter . . . subjected to an adverse employment decision by the employer, and (3) there was a causal link between the two." Jamison v. Rockaway Twp. Bd. of Educ., 242 N.J. Super. 436, 445 (App. Div. 1990). See also Young v. Hobart West Grp., 385 N.J. Super. 448, 465 (App. Div. 2005).

Here, plaintiff demonstrated she had engaged in a protected activity and four months after her complaints, she was scheduled to work fewer hours than prior to her complaints. However, plaintiff's proofs do not establish any causal link between her complaints and the decrease in her work schedule. We agree with the motion judge's conclusion that the change in plaintiff's work hours, accompanied by the other intervening events, four months following the Brown investigation suggested the events were not linked. See Young, supra, 385 N.J. Super. at 467 (stating that when timing alone is not sufficient to show a retaliatory motive, a plaintiff must set forth additional evidence to prove the causal link). Finally, the record shows plaintiff received a raise following her harassment complaint, a fact that counters retaliation.

Affirmed.