

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

LORAIN B. CALDWELL,
Plaintiff-Appellant,
v.
DUKE ENERGY CORPORATION,
Defendant-Appellee.

No. 02-1106

Appeal from the United States District Court
for the Western District of North Carolina, at Charlotte.
H. Brent McKnight, Magistrate Judge.
(CA-00-297-3-MCK)

Submitted: July 18, 2002

Decided: July 25, 2002

Before WIDENER, LUTTIG, and GREGORY, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Roger W. Rizk, ROGER W. RIZK, P.A., Charlotte, North Carolina, for Appellant. Jill Stricklin Cox, John James Doyle, Jr., CON-STANGY, BROOKS & SMITH, L.L.C., Winston-Salem, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Loraine B. Caldwell appeals from the district court's order granting summary judgment in favor of Defendant Duke Energy Corporation and dismissing her employment discrimination action alleging violations of the Age Discrimination in Employment Act of 1967, 29 U.S.C.A. §§ 621-634 (West 1999 & Supp. 2001).

Our review of the record and the district court's opinion discloses that this appeal is without merit. Even assuming, *arguendo*, that Caldwell established a prima facie case of employment discrimination, *O'Connor v. Consolidated Coin Caterers Corp.*, 517 U.S. 308, 310-11 (1996); *see also McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802 (1973); *Alvarado v. Board of Trustees*, 928 F.2d 118, 121 (4th Cir. 1991), we agree with the district court that Caldwell failed to rebut the legitimate, nondiscriminatory reasons Duke Energy Corporation proffered to support its decision to terminate her. *Texas Dep't of Community Affairs v. Burdine*, 450 U.S. 248, 254-56 (1981); *Conkwright v. Westinghouse Elec. Corp.*, 933 F.2d 231, 234-35 (4th Cir. 1991). Specifically, the evidence demonstrated that in violation of her employer's policies, Caldwell, a customer service specialist, intentionally disconnected calls from customers and failed to properly designate a telephone call concerning a fire as a priority call. Caldwell's self-serving, unsubstantiated statements in opposition to the employer's evidence in this regard is insufficient to stave off summary judgment. *Williams v. Cerberonics, Inc.*, 871 F.2d 452, 455 (4th Cir. 1989). Accordingly, we cannot say that the district court's finding of non-discrimination was clearly erroneous. *Anderson v. City of Bessemer*, 470 U.S. 564, 574 (1985).

We therefore affirm the district court's grant of summary judgment in favor of Duke Energy Corporation. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the Court and argument would not aid the decisional process.

AFFIRMED