

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 17-10970

D.C. Docket No. 1:16-cv-00124-ODE

KELLI JOHNSON,

Plaintiff- Appellant,

versus

RESCARE OF GEORGIA,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Georgia

(April 3, 2019)

Before TJOFLAT and JORDAN, Circuit Judges, and SCHLESINGER,* District
Judge.

PER CURIAM:

* Honorable Harvey Schlesinger, United States District Judge for the Middle District of Florida,
sitting by designation.

Kelli Johnson appeals the district court's grant of summary judgment on her claim that ResCare of Georgia breached an express contract by not paying her \$16 per hour for skilled nursing services to patients for whom she provided "host home services." Having reviewed the record, and with the benefit of oral argument, we affirm.

Viewing the facts in the light most favorable to Ms. Johnson, *see Glob. Quest, LLC v. Horizon Yachts, Inc.*, 849 F.3d 1022, 1026 (11th Cir. 2017), the record shows that from 2007 to 2014 ResCare and Ms. Johnson operated under an express oral contract providing that Ms. Johnson would receive \$16 per hour for skilled nursing services she provided to ResCare's patients. ResCare paid Ms. Johnson pursuant to this agreement until July of 2014, when it told her that it would no longer pay separately for skilled nursing services provided to the "host home" patients she was caring for at her home (pursuant to a separate written agreement).

Ms. Johnson contends that ResCare owes her \$16/hour for skilled nursing she provided to the "host home" patients after July of 2014. Under Georgia law, however, an indefinite oral contract like the one between ResCare and Ms. Johnson was terminable at will (i.e., with or without cause). *See Balmer v. Elan Corp*, 599 S.E. 2d 158, 161 (Ga. 2004); O.C.G.A. § 34-7-1. Once ResCare told Ms. Johnson in July of 2014 that it was no longer going to pay her separately for skilled nursing services, the oral contract between the parties ended. Ms. Johnson therefore does

not have a valid breach of contract claim for skilled nursing services she provided after July of 2014.

Assuming without deciding that Ms. Johnson might have had a *quantum meruit* claim against ResCare, the district court denied her motion for leave to add such a claim. As Ms. Johnson does not appeal that ruling, we need not address the contours of such a claim.

AFFIRMED.