



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Buffalo Local Office

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pleading s

6 Fountain Plaza, Suite 350
Buffalo, NY 14202
(716) 551-4442
TTY (716) 551-5923
FAX (716) 551-4387

Charge No.: 525-2013-00891

David L. Reid
[REDACTED]

Charging Party

RECEIVED
APR 30 2015

County of Erie
Attention: Michelle M. Parker
95 Franklin St., Room 1634
Buffalo, NY 14202

ERIE COUNTY
DEPARTMENT OF LAW

Respondent

DETERMINATION

Under the authority vested in me by the Commission's Procedural Regulations, I issue the following determination on the merits of this charge filed under Title VII of the Civil Rights Act of 1964, as amended (Title VII.) Timeliness, deferral and all other requirements for coverage have been met.

The Charging Party, African-American began working for Respondent in or around September 2012 as a Laborer. Charging Party alleged that in or around March of 2013, he was informed by his supervisor that Assistant Administrative Clerk Amy Hughes/Caucasian was uncomfortable with his presence on the 1st floor of the building because of her with District Attorney's Office, given the number of blacks and minorities prosecuted her office. Upon learning of this, Charging Party maintained that he ceased exchanging pleasantries with her. Additionally, Charging Party alleged that in April 2013, and again on or about August 7, 2013, the Administrative Clerk complained about his presence and that he was advised to stay "out of sight. In or around August 2013, Charging Party filed an internal complaint of race discrimination with the County's EEO Office. Charging Party alleges that in retaliation for having complained about race discrimination, he was subjected to monitoring and was written-up on September 16, 2013.

Respondent denied Charging Party's allegations and maintained Ms. Hughes and other employees complained about Charging Party and being subjected to his unwanted attention, but denied that the complaints were lodged because of Charging Party's race. Respondent maintained that Charging Party was instructed to start his work shift in an area other than the 1st floor, and that he was written-up because he disregarded that order. Respondent acknowledged that Charging Party lodged an internal EEO complaint, but denies that he was written-up in retaliation for having complained about discrimination.

The investigation revealed that Charging Party was assigned to work in different floors including the 1st Floor. It was revealed that Charging Party frequently exchanged pleasantries with employees at the end of their workday. Credible evidence shows that a number of employees enjoyed Charging Party's presence and friendliness. Although the investigation uncovered that not all employees enjoyed interacting with Charging Party and a few complained about being approached by him, none of the information obtained revealed that Charging Party was disruptive, inappropriate or unprofessional.

The investigation also confirmed that Charging Party was made aware that Ms. Hughes did not want to exchange pleasantries with him, so he stopped approaching her; yet he was later instructed to not be stationed on the 1st Floor near or around the exits of the Old County Hall. There is also a lack of information to support that Respondent gave Charging Party clear instructions to work in another area (and not work on the 1st Floor) at specific hours of the day. In addition, the record shows that a similarly situated Caucasian laborer was not forbidden to be stationed on the 1st Floor.

The investigation revealed that in August 2013, Charging Party filed an internal complaint of race discrimination. In retaliation, on September 16, 2013, Charging Party was subjected to monitoring and was written-up for alleged insubordination. Although Respondent maintained that Charging Party was insubordinate by disregarding the order to "start his work shift in a specified area," the investigation failed to substantiate that he was given that order.

Respondent's asserted defense does not withstand scrutiny, and the Commission has determined that reasonable cause exists to believe that Charging Party was mistreated because of his race; and in retaliation for having complained about race discrimination he was monitored and disciplined, in violation of Title VII of the Civil Rights Act of 1964, as amended.

This determination is final. Title VII requires that, if the Commission determines that there is reasonable cause to believe that violations have occurred, it shall endeavor to eliminate the alleged unlawful employment practices by informal methods of conference, conciliation, and persuasion. Having determined that there is reason to believe that violations have occurred, the Commission now invites Respondent to join with it in an effort toward a just resolution of this matter.

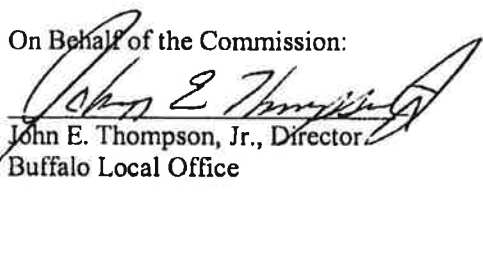
Disclosure of information obtained by the Commission during the conciliation process may only be made in accordance with Title VII and the Commission's Procedural Regulations. The confidentiality provisions of Sections 706 and 709 of Title VII and Commission Regulations apply to information obtained during conciliation.

If Respondent declines to enter into conciliation discussions, or when the Commission's representative is unable to secure an acceptable conciliation agreement, the Director shall so inform the parties, advising them of the court enforcement alternatives available to aggrieved persons and the Commission.

On Behalf of the Commission:

APR 28 2015

Date


John E. Thompson, Jr., Director
Buffalo Local Office

CC: James Schwan, Attorney
Ellicott Square Building
295 Main St., Ste. 700
Buffalo, NY 14203