

SUMMARY OF COMPLAINT

Complainant claimed that on March 15, 2011, Respondent refused her rental of an apartment because of her race. To support her claim, Complainant alleged that on March 15, 2011, she contacted Respondent by telephone in response to an advertisement for an apartment she saw in the *Hudson Reporter*, a local newspaper. Complainant further alleged that she made an appointment with Respondent to tour the apartment the next day. Complainant alleged that at the end of her conversation with Respondent, Respondent said to her that she was being very selective and did not want to rent to Blacks and Hispanics. Complainant stated that she then terminated her conversation with Respondent.

SUMMARY OF RESPONSE

Respondent denied discriminating against Complainant for any unlawful reason, including race. Respondent denied making the discriminatory statements Complainant attributed to her. Respondent asserted she had no recollection of speaking to Complainant, and that she has previously rented to Hispanic tenants.

SUMMARY OF INVESTIGATION

In a certification, Complainant explained that she saw the advertisement for a rental at the property online at www.HudsonReporter.com. She stated that on March 15, 2011, at approximately 5:20 p.m., she telephoned the number listed (201-424-4266).¹ Complainant stated that the person who answered identified herself as Donna Ferraro, the owner of the apartment. Complainant stated that she had a “nice conversation” with Respondent. Complainant described the conversation as follows: She and Respondent laughed about the fact that Respondent was unaware that the advertisement also appeared online (versus print alone). Respondent described for her the layout of the apartment, stating that the first floor had a small room, storage, and a fully equipped basement, and that there was a washer and dryer in the apartment. Respondent also stated that there is a pool tenants may use so long as they sign a waiver.

Respondent also told Complainant a bit about herself, saying that she lives on Elm Street, that she is on disability, and that her husband works. After Complainant asked Respondent if there was anything she needed to bring with her in case she liked the apartment, Respondent told her she should bring \$1,500.00, which would cover the security deposit and show she was serious about renting the apartment. Respondent told Complainant the apartment was really nice and would probably not last long and that she was being “very selective.” Respondent then told Complainant that she doesn’t want any Blacks or Hispanics, because she has had a problem with “these people” before. Respondent said to Complainant that she sounded like a nice white girl and that she knew she had a job because she could see she was calling from her job. Complainant stated in her certification “at that point, my heart dropped.” Complainant stated that she then told Respondent

¹Complainant called the above listed number for Respondent from her place of employment.

that she is African-American. Complainant stated that Respondent began to stutter and kept repeating the word "uh." Complainant stated she was insulted, sad, angry, and hurt, and that she hung up the telephone.

In her answer to the Verified Complaint, Respondent denied making any discriminatory statements to anyone who telephoned about the subject apartment. She stated she received many telephone calls about the apartment and does not recognize or recall speaking with Complainant. Respondent stated: "Aja is not exactly a common first name and I would think I would remember it if I had spoken to them (sic) in length enough to ask them (sic) their race..[.]" Respondent denied saying that she was being very selective and did not want to rent to Black or Hispanic people. Respondent further stated that she is currently renting both floors of the property to Hispanic individuals.

Although Respondent contended that she does not recall speaking with Complainant and that she would certainly remember if she spoke with her at length, Complainant produced telephone records suggesting that a conversation of considerable length in fact took place. Telephone records for Complainant's employer established that there was a telephone call made to Respondent's number (201-424-4266) at 5:22 p.m. on March 15, 2011, and that the call lasted 12.50 minutes. Whereas Respondent claimed to not recall having a conversation with Complainant, Complainant recalled specific details of the conversation, including what Respondent told her of the layout of the apartment and personal information Respondent provided about herself, including the fact that she lives on Elm Street.

The Division investigator also interviewed Charlene Sawyer, Complainant's mother. Sawyer submitted a certification to the Division stating that on March 15, 2011, at approximately 6:00 p.m., Complainant came to her house after leaving work, and was crying. She stated Complainant described to her the telephone conversation she had with Respondent. Sawyer stated that Complainant told her that after engaging in a pleasant conversation about the apartment, and after telling Complainant that she sounded like someone she would like to rent to, Respondent said she has had problems with Blacks and Hispanics and that Complainant sounded like "a really nice young white girl." Sawyer stated that her daughter was insulted and very sad.

These findings of fact and certifications indicate that on March 15, 2011 at 5:22 p.m. Complainant had a 12.50 minute telephone conversation with Respondent. Based on the information Complainant learned about the apartment and about Respondent herself, it appears reasonable to believe that Complainant was interested in renting the subject apartment, and that Respondent was interested in renting the apartment to Complainant before race was discussed. Complainant's reaction following the telephone conversation, as related by her and Sawyer, appears to be reasonable and believable.

ANALYSIS

At the conclusion of the investigation, the Division is required to make a determination whether “probable cause” exists to credit a complainant’s allegation of discrimination. Probable cause has been described under the LAD as a reasonable ground for suspicion supported by facts and circumstances strong enough to warrant a cautious person to believe that the law was violated and that the matter should proceed to hearing. Frank v. Ivy Club, 228 N.J. Super. 40, 56 (App. Div. 1988), rev’d on other grounds, 120 N.J. 73 (1990), cert. den., 111 S. Ct. 799. A finding of probable cause is not an adjudication on the merits but, rather, an “initial culling-out process” whereby the Division makes a preliminary determination of whether further Division action is warranted. Sprague v. Glassboro State College, 161 N.J. Super. 218, 226 (App. Div. 1978). See also Frank v. Ivy Club, supra, 228 N.J. Super. at 56. In making this decision, the Division must consider whether, after applying the applicable legal standard, sufficient evidence exists to support a colorable claim of discrimination under the LAD.

While there is a credibility issue as to the conversation that took place between Complainant and Respondent on the above date, the investigation disclosed information that weighed in Complainant’s favor, thereby creating a reasonable suspicion that Respondent made the alleged discriminatory comments, which effectively denied Complainant rental of the apartment. Complainant gave a detailed recollection of the conversation and provided evidence of the length of the telephone call. Further, Complainant’s reaction to the telephone conversation, as related by both herself and her mother, appears to be reasonable and believable under the circumstances as presented herein. There was no evidence to suggest that Complainant fabricated the telephone conversation.

FINDING OF PROBABLE CAUSE

The investigation revealed sufficient evidence to support a reasonable suspicion that Respondent refused to rent Complainant an apartment because of her race. It is, therefore, determined and found that Probable Cause exists to credit the allegations of the Verified Complaint.

10/26/11
Date

Gary LoCassio
Gary LoCassio, Acting Director
Division on Civil Rights



STATE OF NEW JERSEY
 OFFICE OF THE ATTORNEY GENERAL
 DEPARTMENT OF LAW & PUBLIC SAFETY
 DIVISION ON CIVIL RIGHTS
 DCR DOCKET NO.: HJ01RW-62204
 HUD NO.: 02-11-0468-8

 AJA SPOONER,
 COMPLAINANT,

-vs-

DONNA FERRARO
 RESPONDENT.

RECEIVED AND RECORDED
 DATE:
 DEPARTMENT OF LAW & PUBLIC SAFETY
 DIVISION ON CIVIL RIGHTS
 BY:

AMENDMENT TO THE
 VERIFIED COMPLAINT

I, Gary LoCassio, Esq. as the Acting Director of the New Jersey Division on Civil Rights, hereby intervene as a complainant in the above referenced matter pursuant to N.J.A.C. 13:4-4.2 (b) and hereby amend the caption of the Verified Complaint, received and filed on April 26, 2011, to read as follows:

AJA SPOONER
 AND
 GARY LOCASSIO, ACTING DIRECTOR,
 NEW JERSEY DIVISION ON
 CIVIL RIGHTS,
 COMPLAINANTS,
 -vs-
 DONNA FERRARO,
 RESPONDENT.

I hereby approve the filing of this amended complaint.

Gary LoCassio

October 26, 2011
 Date

 Gary LoCassio, Acting Director
 Division on Civil Rights
 State of New Jersey
 Office of the Attorney General
 Department of Law and Public Safety