



B-24

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of L.W.H., Department
of Children and Families

CSC Docket No. 2015-3194

Discrimination Appeal

ISSUED: **SEP 08 2015** (LDH)

L.W.H.,¹ a Family Service Specialist 2 with the Department of Children and Families (DCF), appeals the attached determination of the Director of Administration, DCF, which found that the appellant failed to present sufficient evidence to support a finding that he had been subjected to a violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

The appellant filed a discrimination complaint with the appointing authority's Office of Equal Employment Opportunity and Affirmative Action (EEO/AA) alleging that he had been discriminated against because of his gender. Specifically, he alleged that his supervisor O.A., a female Supervising Family Service Specialist 2, used her position to harass the appellant by deterring him from completing daily tasks and not approving his training requests and timesheets in a timely manner. Also, he alleged that another male, V.F., Family Service Specialist 2, was removed from under O.A.'s supervision due to similar issues and concerns.

In response to his complaint, the EEO/AA conducted an investigation and determined that the appellant had failed to substantiate a violation of the State Policy. The EEO/AA's investigation was unable to substantiate any of the appellant's allegations because there was no evidence, through witnesses or otherwise, to confirm the allegations made by the appellant. The investigation

¹ The appellant is referred to as D.L.H. in the attached determination letter.

found that per office policy, Resource Family Support Workers² are only allowed to work two hours of overtime a day, and that thorough documentation is required for approval of overtime. The investigation found no evidence that the appellant's time sheets and training requests were purposely approved in an untimely manner by O.A. Rather, the investigation found that the appellant was instructed to add additional detail to his contact sheets in order to justify the overtime that he worked. In this regard, the appellant was instructed, and agreed, to change his overtime for October 9, 2014 after learning that he did not work until 8 p.m. The investigation did not corroborate the appellant's statement that V.F. was discriminated against because of his gender. Lastly, the investigation revealed that the appellant and O.A. had an adversarial relationship. Based on the results of the investigation, the appellant had failed to substantiate a violation of the State Policy.

On appeal to the Civil Service Commission (Commission), the appellant argues that although he is discouraged by the findings from the investigation, he accepts that the preponderance of the evidence did not prove discrimination based on gender. However, he reiterates that O.A. discriminates against him because of his gender and creates hostility in the workplace with her constant attacks. Also, he states that he has made multiple requests to be transferred out his unit with no avail.

In response, the EEO/AA reiterates that the investigation did not reveal that the appellant was subjected to a violation of the State Policy. The EEO/AA states that although O.A. has an inability to communicate effectively with her staff, it is not specific to gender and therefore is not an EEO/AA matter. With regard to the training requests and time sheets, the EEO/AA states that O.A. followed departmental policy and that the appellant changed his overtime request form and time sheet to adjust for the actual time he worked. Lastly, the EEO/AA argues that there was no evidence that V.F. was discriminated against by O.A. Thus, it maintains that the appellant's appeal should be denied.

CONCLUSION

Initially, the State Policy provides that it is a violation of the Policy to engage in any employment practice or procedure that treats an individual less favorably based upon any of the protected categories. See *N.J.A.C. 4A:7-3.1(a)3*. The protected categories include race, creed, color, national origin, nationality, ancestry, age, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or

² The appellant's functional title.

disability. *See N.J.A.C. 4A:7-3.1(a)*. Moreover, the appellant shall have the burden of proof in all discrimination appeals. *See N.J.A.C. 4A:7-3.2(m)3*.

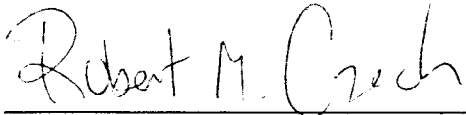
The Civil Service Commission (Commission) has conducted a review of the record in this matter and finds that an adequate investigation was conducted by the EEO/AA, and that the appellant has failed to present sufficient evidence to support a finding that he was subjected to a violation of the State Policy. The investigation revealed that there was nothing discriminatory with regard to the timeliness of the approval of the appellant's time sheets or training requests. The investigation found that it was standard policy for overtime hours to be accurately documented. As a result of non-compliance with office policy, the appellant was instructed to verify his work. In addition, the investigation found no evidence that O.A. had discriminated against the appellant or V.F. on the basis of their gender. Though it is acknowledged that the respondent has an inability to communicate effectively with her employees, it was not shown that it was on the basis of an employee's gender. Moreover, the appellant has not provided any evidence to the contrary on this issue. Rather, other than his mere allegations, the appellant has failed to present any evidence which establishes that the respondent's conduct was discriminatory in any way. Finally, the appellant has stated that he accepts that the evidence did not prove that he was discriminated against based on his gender. Thus, the appellant's claim of discrimination is without merit. Accordingly, based on the foregoing, no basis exists to find a violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 2nd DAY OF SEPTEMBER, 2015



Robert M. Czech
Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
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Civil Service Commission
Written Record Appeals Unit
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Attachment

c: L.W.H.
Jillian Hendricks
Mamta Patel
Joseph Gambino



State of New Jersey

DEPARTMENT OF CHILDREN AND FAMILIES
P. O. BOX 717
TRENTON, NJ 08625-0717

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

ALLISON BLAKE, PH.D., L.S.W.
Commissioner

May 21, 2015

Mr. D [REDACTED] L [REDACTED] H [REDACTED]
[REDACTED]
[REDACTED]

***Re: Discrimination Complaint of September 30, 2014
File No. 70-14***

Dear Mr. H [REDACTED]:

This letter is in reference to the complaint you filed on September 30, 2014, against O [REDACTED] A [REDACTED], Supervising Family Service Specialist 2 (SFSS2) of the Newark South Local Office (NSLO), on the basis of gender. Thank you for bringing your complaint to the attention of the Office of Equal Employment Opportunity and Affirmative Action (EEO/AA).

The Department of Children and Families (DCF) does not condone, nor tolerate, any form of discriminatory or harassing behavior in the workplace. Therefore, pursuant to *New Jersey State Policy Prohibiting Discrimination in the Workplace* ("State Anti-Discrimination Policy") the Office of EEO/AA conducted a thorough investigation.

You alleged that you were targeted by Ms. A [REDACTED] due to the fact that she singled you out because you are the only male in the unit. You alleged that Ms. A [REDACTED] uses her position to "try" to intimidate and harass you whenever you address issues and concerns with the administration, and that she is intimidated by you and uses her position to deter you from completing your daily tasks, and job duties, in a timely manner. You alleged that another male worker, V [REDACTED] F [REDACTED], Family Service Specialist 2 (FSS2) of the NSLO, was removed from under her supervision due to similar issues/concerns. You also alleged that Ms. A [REDACTED] does not approve your training requests and time sheets in a timely manner.

The investigation found that as per office policy, Resource Family Support Workers (RFSW) are only allowed to work two hours of overtime a day (if needed), and that thorough documentation

Derrick Lamont Harris

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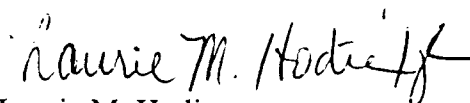
is required for approval of the overtime as well as additional overtime worked. The investigation found that Ms. A [REDACTED] instructed you to add additional detail to your contact sheets in order to justify the overtime that you worked. The investigation corroborated the fact that you were instructed to, and agreed to, change the overtime for October 9, 2014, on your timesheet after learning that you did not work until 8pm. The investigation could not corroborate that a previous male employee found Ms. A [REDACTED]'s behavior toward him to be based on gender, but acknowledged that Ms. A [REDACTED] does talk down to employees in general. The investigation learned that you and Ms. A [REDACTED] have an adversarial relationship, and have argued in front of other employees. The investigation found no evidence that your time sheets and training requests are purposely approved in an untimely manner by Ms. A [REDACTED].

Based on the results of the investigation, it has been determined that O [REDACTED] A [REDACTED] did not violate the *New Jersey State Policy Prohibiting Discrimination in the Workplace* ("*State Anti-Discrimination Policy*"). In view of the above, we will not be taking further action in regard to this matter

If you wish to appeal this determination, you must submit a written appeal to the New Jersey Civil Service Commission, Division of Merit System Practices and Labor Relations, Written Record Appeals Unit, P. O. Box 312, Trenton, NJ 08625-0312, postmarked or delivered within 20 days of your receipt of this determination. Your appeal must include a copy of this determination, the reason for the appeal and the specific relief requested. Be advised that effectively July 1, 2010, there is a \$20 fee for appeals. Please include a check or money order along with your appeal, payable to NJCSC. Persons receiving public assistance and those qualifying for NJCSC Veterans Preference are exempt from this fee.

At this time, I would like to remind you that the *State Policy* prohibits retaliation against any employee who files a discrimination complaint or participates in a complaint investigation. Furthermore, this matter remains confidential and the results of the investigation should not be discussed with others.

Very truly yours,



Laurie M. Hodian
Director of Administration

cc: Jillian Hendricks, Director of EEO/AA
Mamta Patel, Director EEO/AA, CSC
Thaddeus Ojibe, LOM, Newark South Local Office
David Sims, Area Director, Essex Area Office, DCP&P