



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE
ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of T.G., Department of
Human Services

CSC Docket No. 2017-2801

Discrimination Appeal

ISSUED: APRIL 5, 2018 (CSM)

T.G., a Motor Vehicle Operator 1 with the Department of Human Services, appeals the determination of the Assistant Commissioner, Office of Legal Affairs, that the appellant did not present sufficient evidence to support a finding that she had been subjected to a violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

The appellant filed a complaint with Human Services' Office of Equal Employment Opportunity (EEO) alleging that she had been discriminated against based on race and sex/gender. Specifically, the appellant claimed that S.B., a Laundry Supervisor, discriminated against her because of her race when she said to her, "No you make too much," when she asked if she could work overtime. The appellant also claimed that S.B. discriminated against her because of her race and gender by denying her the opportunity to work overtime in Laundry while she granted overtime M.W., a Caucasian male Repairer, who works in the Laundry. She also claimed that S.B. discriminated against her because of her gender when she offered S.A., an African American male Motor Vehicle Operator 1, the opportunity to work overtime in the Laundry but did not offer it to her. Further, the appellant claimed that S.B. discriminated against her based on her race when she made the comment, "You all make more money than me and that's not supposed to be." The EEO investigated the matter, which included interviewing witnesses and reviewing documentation, and could not substantiate a violation of the State Policy.

On appeal, the appellant states that S.B. informed her in March 2015 that “I make too much money to receive overtime” and never stated that “we make too much money.” Further, the appellant presents that she does not understand why she was unable to work overtime in the Laundry when M.W., who was a Repairer and worked out-of-title as a Senior Laundry Worker before coming into the Laundry, was permitted to work overtime. The appellant also asserts that S.A. stated that he was offered and agreed to work overtime on several occasions. Additionally, she claims that when S.B. stated that “you all make more money than me and that’s no supposed to be,” that this statement was made when “all the Truck Driver title were minorities.” The appellant requests that S.B be suspended and receive sensitivity training and that she be compensated for lost of wages and emotional distress.

In response, the EEO presents that during the investigation, it interviewed four witnesses and reviewed nine relevant documents and it was unable to substantiate the appellant’s allegations. Specifically, during the investigation, S.B. stated that the appellant never told her that she specifically wanted to work overtime in the Laundry. Further, during the EEO interview, the appellant admitted that she did not tell S.B. that she wanted to work overtime in the Laundry. Rather, during the investigation, the EEO presents that the appellant stated, “I just asked her about overtime.” With respect to S.A., during the EEO interview, he was asked, “Since [T.G.] came to HDC to work, have you worked overtime in the laundry?” The EEO states that S.A. responded, “No, I have not; it was not offered to me.”

CONCLUSION

N.J.A.C. 4A:7-3.1(a) provides that under the State Policy, discrimination or harassment based upon the following protected categories are prohibited and will not be tolerated: 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 disability.

N.J.A.C. 4A:7-3.1(b) states, in pertinent part, that it is a violation of the State Policy to use derogatory or demeaning references regarding any of the protected categories and that a violation can occur even if there was no intent on the part of an individual to harass or demean another. Additionally, the appellant shall have the burden of proof in all discrimination appeals. *See N.J.A.C.* 4A:7-3.2(m)(3).

The Commission has conducted a review of the record and finds that the appellant has not established that she was subjected to discrimination in violation of the State Policy. The investigation included interviewing witnesses and

reviewing documentation and found that S.B. stated that the appellant never told her that she specifically wanted to work overtime in the Laundry. Further, during the EEO interview, the appellant admitted that she did not tell S.B. that she wanted to work overtime in the Laundry. Further, the appellant has not rebutted the EEO's argument that during the investigation interview, the appellant stated, "I just asked her about overtime." Further, the appellant has not rebutted that at the time of the EEO interview on August 9, 2016, S.A. was asked, "Since [T.G.] came to HDC to work, have you worked overtime in the laundry?" and her responded "No, I have not; it was not offered to me."

Accordingly, the Commission finds that the EEO's investigation was thorough and impartial, and the record does not support a finding that there was 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
4TH DAY OF APRIL, 2018

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