



STATE OF NEW JERSEY

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

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

CSC Docket No. 2018-26

Discrimination Appeal

ISSUED: FEBRUARY 14, 2020 (JET)

A.G., a Residential Services Worker with Hunterdon Developmental Center, Department of Human Services, appeals the determination of the Assistant Commissioner, Office of Legal Affairs, Department of Human Services, which found that the appellant failed 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).

A.G., an Asian American female, filed a complaint with the Equal Employment Office (EEO), Department of Human Services, alleging that on April 11, 2017, T.H. and D.W., Crew Supervisors, Building Maintenance Workers, criticized the appellant’s work due to her race. She also alleged that they did not critique the work of her non-Asian American co-workers. The EEO conducted an investigation and a violation of the State Policy based on race was not substantiated. Specifically, the EEO interviewed four witnesses and reviewed pertinent documentation, and the witnesses denied that T.H. and D.W. took action against the appellant as a result of her race. The witnesses stated that T.H. and D.W. addressed and took acceptable actions due to various deficiencies that were found after conducting a routine inspection of the appellant’s work area. Additionally, the investigation revealed that T.H. and D.W. previously reprimanded and issued corrective actions to several non-Asian American employees.

On appeal, the appellant asserts that there were two complaints filed pertaining to T.H.’s and D.W.’s inappropriate behavior. In this regard, the appellant explains that D.B. indicated in her written statement that T.H. and D.W.

were loud, disrespectful, and they stated that they would be watching the appellant. Additionally, J.W. indicated in her written statement that the appellant's supervisors were threatening toward the appellant and she overheard them state they would be watching her. Further, the appellant contends that the witnesses did not state that T.H.'s and D.W.'s behavior was acceptable. Rather, J.W.'s and D.B.'s statements confirmed that T.H. verbally abused her. The appellant contends that T.H. and D. W. engaged in such behavior while they were in the crisis room with a client and two other supervisors, and she maintains that such behavior constitutes verbal abuse. As such, the appellant questions how the EEO could find T.H.'s and D. W.'s actions were acceptable. Moreover, the appellant maintains that the EEO ignored J.W.'s and D.B.'s statements.

In response, the EEO maintains that there was no violation of the State Policy. Specifically, the EEO asserts that T.H. and D.W. denied discriminating against the appellant due to her race. Rather, they explained that they conducted a standard facility inspection and found minor discrepancies with the appellant's work which they verbally addressed with her. The EEO adds that, according to D.W., the appellant stated, "this is bullshit [and] you don't have to tell me how to do my job." The EEO explains that T.H. and D.W. did not take any written corrective actions toward the appellant, and as such, she experienced no adverse employment consequences. Moreover, the EEO asserts that T.H. and D.W. previously took written corrective actions regarding several of the appellant's co-workers who are not Asian American, which shows that the appellant was not singled out.

Additionally, the EEO maintains that, with respect to the appellant's witnesses, J.W. did not witness the April 11, 2017 incident, but rather, she relied upon information provided from her unnamed staff members. In addition, the EEO explains that D.B.'s version of events undermines the appellant's allegations of racial discrimination, as she stated that T.H. and D.W. did not treat her differently due to her race. As such, the EEO contends that the appellant has not established how her supervisors' actions at the time of the incident was related to her race as the appellant only alleged that her supervisors criticized her. As such, the EEO states that the appellant's appeal should be denied.

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. 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 the appellant has not established that she was subjected to discrimination in violation of the State Policy. The record reflects that the EEO conducted a proper investigation. It interviewed the relevant parties in this matter and appropriately analyzed the available documents in investigating the appellant's complaint. The underlying determination was correct when it determined that there was no violation of the State Policy. The appellant's arguments on appeal and the allegations of her complaint do not evidence that she was discriminated against based on any of the above listed protected categories listed in the State Policy. Additionally, a review of the appellant's allegations do not reveal any information that implicates the State Policy. Although the appellant's supervisors verbally counseled the appellant after an inspection of her work area, such information does not establish that she was subjected to disciplinary action nor does it show that she was discriminated against. Moreover, there is no evidence to show that the appellant was singled out, as her supervisors previously issued written correction notices to her non-Asian American co-workers. Other than the appellant's tenuous claims, there is no information to show that T.H.'s or D.W.'s actions as alleged by the appellant were anything other than their exerting their supervisory authority at the time of the incident. Even if the appellant disagreed with T.H.'s style of management, the Commission has consistently found that disagreements between co-workers cannot sustain a violation of the State Policy. *See In the Matter of Aundrea Mason* (MSB, decided June 8, 2005) and *In the Matter of Bobbie Hodges* (MSB, decided February 26, 2003). Moreover, management or supervisory style is not reviewable under the State Policy unless that style evidences some form of discriminatory conduct under the Policy.

With respect to the appellant's arguments that the EEO ignored the statements from her witnesses, it is at the EEO's discretion to interview as few or as many witnesses as it determines necessary in order to complete an investigation. Regardless, the EEO interviewed four witnesses, including J.W. and D.B., and a violation of the State Policy was not substantiated. The appellant has provided no evidence on appeal to refute the witnesses. Additionally, the appellant has not provided any information to dispute the EEO's argument that J.W. did not directly witness the incident and that D.B. stated that the appellant was not discriminated against by her supervisors at the time of the incident.

Other than the appellant's allegations in this matter, she has failed to provide any evidence that he was discriminated or retaliated against in violation of the State Policy. Accordingly, she has not satisfied her burden of proof in this matter.

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 12th DAY OF FEBRUARY, 2020



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