



**STATE OF NEW JERSEY**

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

In the Matter of H.D., Motor Vehicle  
Commission

Discrimination Appeal

CSC Docket No. 2019-3698

**ISSUED: JULY 20, 2020 (ABR)**

H.D., a Senior Technician MVC, appeals the determination of the Director, Office of Compliance, Motor Vehicle Commission (MVC), which found that he had violated the State Policy Prohibiting Discrimination in the Workplace (State Policy).

By way of background, on December 26, 2018, E.H., a Technician MVC, filed a complaint with the MVC’s Office of Equal Employment Opportunity (EEO), alleging that the appellant subjected her to discrimination on the basis of age and several pre-existing medical conditions. Specifically, she alleged that the appellant’s treatment of her and his reviews of her performance reviews were biased due to her age and/or disabilities. She further alleged that he made multiple age-based comments towards her, including: “I don’t care how old you are, even if you’re 80, you must respect me,” and “you’re not my parent.”

In response to the complaint, the EEO conducted an investigation which consisted of the review of nine documents and interviews of E.H.; the appellant; P.D., a Technician MVC; and T.H., a Supervisor 1 MVC. E.H. stated that she was 58 years old at the time of her EEO interview in May 2019 and the appellant stated that he was 49 years old as of the time of his EEO interview in February 2019. The appellant acknowledged that he told E.H. that her “freezing up” prior to speaking to him made him feel uncomfortable, explaining that he felt bad that it seemed as though she perceived him as attacking her when he was simply addressing her. The appellant stated that he had no knowledge of E.H.’s medical conditions. The appellant denied making any comments about E.H.’s age. P.D. stated that on December 4, 2018, he witnessed the appellant go “on a tirade and rais[e] his voice”

at E.H. after she approached him about some missing forms. P.D. could not recall what the appellant specifically stated, but he indicated that “there was a comment made about [E.H.] being too old for the job.” P.D. also indicated that when he first started at the Lodi agency, the appellant commented that P.D. “may have been too old for the job or something like that. It could have been a joke though.” T.H. denied hearing the appellant make any statements about E.H.’s age, medical conditions or disabilities. The EEO did not substantiate the disability discrimination claim against the appellant. However, it found that the appellant violated the State Policy based upon P.D.’s corroboration that the appellant made an age-based comment to E.H. during a December 2018 incident. As a result, corrective action was taken. Specifically, the appellant was counseled and received in-person training on the State Policy.

On appeal to the Civil Service Commission (Commission), the appellant denies that he discriminated against E.H. or any other employee. He states that he told the EEO representative that it could be frustrating to work with E.H., but that he did not attribute it to her age. The appellant maintains that the witness who corroborated E.H.’s claim “may have ‘conveniently’ recalled this statement as retaliation” for unpopular decisions the appellant had made in his role as a supervisor.

In response the EEO submits copies of the witness statements from the four interviews it conducted, as well as its Final Investigation Report with supporting exhibits, including E.H.’s notes on her interactions with the appellant, dated May 11, 2017; June 21, 2017; July 6, 2018; July 7, 2018; and November 10, 2018. E.H.’s notes dated June 21, 2017 indicate that in May or June of 2017, the appellant told her that “I don’t care how old you are. I don’t care if you’re 80. I’m your supervisor and command your respect.” E.H.’s notes dated July 7, 2018 indicated that the appellant had repeatedly told her: “I’m your supervisor, you’re not my parent.”

## CONCLUSION

It is a violation of the State 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 disability. *See N.J.A.C. 4A:7-3.1(a)*. The State Policy is a zero tolerance policy. *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)4*.

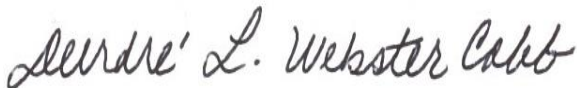
The Commission has conducted a review of the record in this matter and finds that an adequate investigation was conducted, that the relevant parties in this matter were interviewed and that the investigation established that the appellant violated the State Policy. The documentation the EEO furnishes from its Final Investigation Report appears to include contemporaneous notes from E.H. about the appellant's references to their difference in age between May 2017 and November 2018. Furthermore, P.D.'s statements indicate that the appellant had commented about E.H. being too old for her position in December 2018. While the appellant denies making comments about E.H.'s age and suggests that P.D. corroborated E.H.'s allegations as a means of retaliating for unpopular decisions made by the appellant, he offers no proof in support of these claims. Accordingly, the foregoing demonstrates that the EEO investigation was thorough and impartial. Therefore, the Commission finds that the appellant failed to support his burden of proof and there is no basis to disturb the determination of the Director, Office of Compliance, MVC.

### 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 17<sup>TH</sup> DAY OF JULY, 2020




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Deirdre L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Christopher Myers  
Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312  
Trenton, New Jersey 08625-0312

c: H.D.  
Noreen Kemether, Esq.  
Division of Equal Employment Opportunity/Affirmative Action  
Records Center