



**STATE OF NEW JERSEY**

In the Matter of A.C., Department of  
the Treasury

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

CSC Docket No. 2024-18

Discrimination Appeal

**ISSUED:** October 11, 2023 (SLK)

A.C., an Environmental Specialist 1 with the Department of Environmental Protection, appeals the determination of the Director of Administration, Department of the Treasury (Treasury), which was unable to substantiate that she was subjected to sexual harassment in violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

By way of background, A.C., who is female, works on the sixth floor at the 401 East State Street building. M.R., who is male and a Mechanical Equipment Specialist with Treasury, was also assigned to work in this building at the time of the complaint. A.C. alleged that during the week of December 19, 2022, her first interaction with M.R. was when she arrived to work one day after 7:00 a.m. and thanked him for holding the elevator door and commented on the weather. M.R. remained mostly silent during the elevator ride to the sixth floor, but may have said “you’re welcome” when she thanked him, and they both exited on the sixth floor.<sup>1</sup> Thereafter, A.C. alleged that she saw M.R., who she did not know, every morning when she arrived between 7:00 a.m. and 7:30 a.m. near the elevators and he “managed to ride the elevator up to the sixth floor with me. I also noticed that [M.R.] was on the 6<sup>th</sup> floor, every day, at 3 pm, and continually tried to ride the elevator down to the 1<sup>st</sup> floor with me. I noticed that even when I took the stairs, he was always in my path when I got

<sup>1</sup> This was indicated in A.C.’s statement that was provided to the investigator. It was not specifically indicated in the determination letter.

onto the 1<sup>st</sup> floor.”<sup>2</sup> Additionally, A.C. alleged that this pattern continued for several days in early January 2023 when M.R. had been present every morning near the elevator/stairs/lobby when she arrived to work and every afternoon near the elevator/stairs/lobby when leaving work. A.C. alleged that M.R. was engaging in a series of stalking and inappropriate interactions with her. Specifically, A.C. alleged that on two separate occasions, “he was walking to where I sit and looking directly into my cubicle only...I was walking behind him, and his head was pointed forward, as he passed my cubicle, his head turned to look. He did not have any maintenance related equipment on him.”

Additionally, A.C. alleged that on January 10, 2023, she was leaving a little later than usual, around 3:10 p.m., when she saw M.R. waiting by her cubicle. She said that she slowly headed toward the stairs, and she assumed that M.R. would continue to the elevator. She also texted her boyfriend at 3:12 p.m. stating, “I think I have a workplace stalker.” When she took the stairs, she walked down from the sixth floor to the first floor lobby at a snail’s pace so that she would not fall while reading texts as people were passing her. While rounding the corner to the last set of stairs, M.R. opened the door and headed up the stairs passing her up on the left as she was coming down on the right. As she exited the stairwell, M.R. walking behind her, and he followed her. A.C. left the building through the back exit walking through the left revolving door while M.R. exited through the right revolving door. When A.C. took one or two steps outside the building, she realized that M.R. was following her out of the building, so she yelled to him, “are you f\*\*\*\*\*g” kidding me.” M.R. did not respond, and he receded to a back parking lot. After the situation was brought to her direct supervisor’s superior’s attention, A.W., a Manager 3, Environmental Protection, on January 11, 2023, A.W. noticed M.R. walking on the sixth floor from the direction of A.C.’s cubicle, back toward the elevators before or around 7:15 a.m. A.W. called the maintenance group which indicated that there was no reason for M.R. to be on the sixth floor before or around 7:15 a.m. or for his frequent trips to the sixth floor.

Also, on January 11, 2023, after being on the sixth floor, M.R. came down to the lobby and followed A.C. to the stairwell door. A.C. indicated that she started to walk up the steps, before turning, where M.R. was in the doorway, when he said, “good morning” to her, which she responded, “stop following me,” and he preceded out of view. Thereafter, A.C. practically ran up to the sixth floor to call her boyfriend about the incident. Further, when N.D., an Environmental Specialist 4 and A.C.’s direct supervisor logged into Teams between 8:30 and 9:00 a.m., A.C. described the background of the situation. N.D. then called A.W., who is N.D.’s supervisor. A.C.

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<sup>2</sup> In the statement A.C. provided the investigator, she indicated that she started work at 7:30 a.m. and left at 3:00 p.m.

then contacted the Human Resources Relations Group who then redirected her to the Equal Employment Office.<sup>3</sup>

The investigation indicated that witnesses did not confirm observing M.R. following A.C. or making any inappropriate comments to her while they worked in the same building. The investigation revealed M.R. had legitimate business reasons to work on the heating units along the perimeter of the sixth floor where A.C. worked. Further, it was also reported that in early January there were leaking valves in the area where A.C. worked, and M.R. was assigned to check the valves in the morning and again in the afternoon in the area of A.C.'s cubicle.

M.R. denied that he was sexually harassing A.C., and he stated that he frequented the sixth floor because he had a cubicle there and to get his assignments for the day. M.R. presented that both of his supervisors were located on the sixth floor, where he would report every morning and again in the afternoon to get his job assignments. Additionally, witnesses confirmed that the bulk of the heating problems during the winter existed on the sixth floor and only M.R. and his supervisors had access to the mechanical room to fix it. Therefore, as the investigation found that M.R. had legitimate business reasons for him to be on the sixth floor near A.C.'s cubicle, as well as other floors in the building, the investigation was unable to substantiate the allegations. However, the determination indicated appropriate action was taken to remind M.R. to ensure that he is mindful of his conduct in the workplace, or any extension of the workplace, and to ensure his behavior is in accordance with the State Policy.

On appeal, A.C. acknowledges that M.R. has a connection to the sixth floor as he performs maintenance there from time to time. However, A.C. contends that the determination did not address the January 10 and 11, 2023, incidents as described above. She asserts that contrary to the determination, A.W. was a corroborating witness as she saw M.R. walking around A.C.'s cubicle around 7:15 on January 11, 2023. Further, A.W. spoke with E.M., a Communications Systems Technician 1 with the Maintenance Group, and asked if there was any reason for M.R. to be on the sixth floor between 7:00 – 7:30 a.m. on January 11<sup>th</sup>, and E.M. responded that there was not. She requests that M.R. either be banned from working in the 401 East State building or at least be assigned to another building on Mondays, Tuesdays, and Wednesdays, which are the days that she works in the office.

In reply, Treasury states that there is nothing stated in A.C.'s appeal that warrants a response beyond what was already stated in the determination letter. It stands behind its investigation as being thorough, and it believes that there is no support to reverse it. In response to A.C.'s request that M.R. be removed from

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<sup>3</sup> The description of the events from January 10 and 11, 2023, come from A.C.'s statement to the investigator. The allegations regarding the events on these dates either were not addressed, or at least not with specificity, in the determination letter.

working in the 401 East State building, it notes that when A.C. submitted her complaint in January 2023, M.R. was removed from this building pending its investigation.

## CONCLUSION

*N.J.A.C.* 4A:7-3.1(a) provides, in pertinent part, the State is committed to providing every State employee and prospective State employee with a work environment free from prohibited discrimination or harassment. *N.J.A.C.* 4A:7-3.1(c) provides that it is a violation of the State Policy to engage in sexual harassment of any kind. *N.J.A.C.* 4A:7-3.1(g) provides that investigations shall be conducted in a prompt, thorough, and impartial manner.

In this matter, A.C. provides specific and consistent allegations that if the investigation were to substantiate, indicate that M.R. sexually harassed A.C. in violation of the State Policy. The investigation indicates that it was unable to substantiate A.C.'s allegations because there were no witnesses to the alleged harassing behavior, M.R. was on the sixth floor due to legitimate business reasons, and he denied the allegations. Therefore, the determination indicated that the investigation was unable to find sufficient credible evidence to corroborate A.C.'s allegations against M.R. However, it is noted that a violation of the State Policy can be found even without direct corroborating evidence if one party is found to be more credible than the other which indicates whether the allegations are more likely than not to be true.

A review of the determination is unclear as to whether the investigation found that A.C. was not credible or if Treasury simply was not substantiating her allegations because there were no employees who witnessed M.R. directly acting as she describes. Further, the determination letter indicates the M.R. denied the allegations and explained why he was on the sixth floor. However, the investigation does not indicate if M.R. just issued a general denial or if he specifically denied every accusation A.C. made such as riding the elevator with her each morning that she arrived at work and each afternoon when she was leaving during the time period of the allegations. Additionally, A.C. provided the investigator very specific allegations of sexual harassment on January 10 and 11, 2023; yet the determination does not address these allegations with any specificity.

Further, while the investigation indicates that there were no witnesses regarding the alleged harassing behavior, A.C. did present potential contemporaneous evidence that was verifiable. Specifically, A.C. indicated that on January 10, 2023, she sent her boyfriend a text at 3:12 p.m., which stated, "I think I have a workplace stalker." Moreover, after A.C. allegedly yelled at M.R. for following her out the building on January 10, 2023, A.W. allegedly noticed M.R. hanging around A.C.'s cubicle at 7:15 a.m. on January 11, 2023. Also, supposedly, the

Maintenance Group confirmed that there was no reason for M.R. to be on the sixth floor at that time on the 11<sup>th</sup>. Moreover, A.C. alleges that she advised N.D. that M.R. had followed her into the stairwell shortly after the incident on the morning of January 11, 2023. However, the determination letter does not indicate if the investigator attempted to verify these statements, and the results of the verification efforts. Also, the investigation does not indicate the significance of this potential evidence and how this potential evidence impacted the credibility of A.C. and M.R.

Therefore, the Commission finds that Treasury's investigation, or at least as presented in the determination letter, was insufficient. The Commission remands this matter to Treasury to investigate, at least, the January 10 and 11, 2023, incidents as A.C. describes including the potentially confirmable evidence that A.C. provided. Further, Treasury is directed to issue a new determination that provides more details as to the parties' credibility and its bases for substantiation or lack of substantiation of a violation of the State Policy.

### ORDER

Therefore, it is ordered that this appeal be remanded to the Department of the Treasury for further investigation as described above.

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 11<sup>TH</sup> DAY OF OCTOBER, 2023

*Allison Chris Myers*

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