

**STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC
SAFETY
DIVISION ON CIVIL RIGHTS
DCR DOCKET NO. HF14QO-67492**

Latiffa Herring,)
)
Complainant,)
)
v.)
)
Sheila A. Coffin,)
)
Respondent.)

**Administrative Action
FINDING OF PROBABLE CAUSE**

On June 5, 2019, Latiffa Herring (Complainant) filed a verified complaint with the New Jersey Division on Civil Rights (DCR) alleging that Sheila A. Coffin (Respondent) discriminated against her based on her source of lawful income in violation of the New Jersey Law Against Discrimination (LAD), N.J.S.A. 10:5-1 to -49. Respondent denied the allegations of discrimination in their entirety. DCR’s investigation found as follows.

SUMMARY OF INVESTIGATION

Respondent owns a single family home in Vineland that she uses as a rental property. On October 1, 2018, Respondent and Complainant entered into a six-month lease agreement wherein Complainant agreed to rent the home for \$900.00 per month. Complainant gave Respondent a security deposit of \$1,350.00. Complainant paid rent in October, November and December 2018.

In the verified complaint, Complainant alleged that Respondent refused to accept her Section 8 voucher in contravention of the LAD. Complainant stated that in December 2018, the State of New Jersey Department of Community Affairs (DCA) gave Complainant a Housing Choice (Section 8) voucher that would pay a significant portion of her monthly rent. Complainant alleged that she gave Respondent the “Request for Tenancy Approval” form that Respondent had to complete in order for Complainant to use the voucher. Complainant claimed that Respondent sent her a letter informing her that Respondent refused to participate in the Section 8 program.

In her Answer to the complaint, Respondent admitted that she refused to accept Complainant’s Section 8 voucher. She noted that in January 2019, she filed a complaint in the Superior Court of New Jersey, Law Division, Atlantic County, Special Civil Part (ATL-LT-000271-19), seeking to evict Complainant for nonpayment of rent. Respondent stated that Judge James P. McClain heard the matter and signed an Order to evict Complainant. She argued that, because Judge McClain did not see any violation of Complainant’s rights under the LAD, she simply followed a court order in evicting Complainant and was innocent of violating the LAD.

Both Complainant and Respondent gave DCR a copy of Respondent’s December 18, 2018 letter to Complainant, which stated:

[T]his letter is to respond to your desire to get Section 8 housing. After much consideration I am unable to assist you in your efforts to get Section 8. I am not nor will I be giving an agency my personal financial information about this property when it is not necessary to secure a mortgage or other financing. I am sorry if this is something you need. If you need to leave the property just let me know and I will get your security deposit back as soon as possible.

Respondent told DCR that Complainant said that she would move from the property by December 30, 2018. Respondent said Complainant later told her that she would move out by January 15, 2019.

Respondent provided evidence that on January 12, 2019, she filed for Complainant's eviction for non-payment of rent for January 2019. On March 6, 2019, Judge McClain issued a default judgement in favor of Respondent granting her possession of the property. On March 8, 2019, Judge McClain signed an Order to Show Cause staying removal pending a full hearing on March 27, 2019. Following that hearing, on April 1, 2019, Judge McClain issued an Order granting Respondent possession of the property. Judge McClain stayed the Order until April 30, 2019.

Pursuant to that Order, Respondent was required to complete all paperwork in connection with Complainant's Section 8 voucher, and Complainant was instructed to pay Respondent \$3,603.20 in unpaid rent by April 30, 2019. Documentation showed that Respondent completed the paperwork, but Complainant did not pay the unpaid rent to Respondent. On May 1, 2019, Judge McClain issued an Order vacating the stay on the judgment for possession. The May 1 Order stated that Complainant would not be evicted if she paid Respondent \$4,500.00 in back rent plus court costs by May 22, 2109.

Complainant was not able to pay the \$4,500.00 in back rent. Respondent evicted her from the home on May 30, 2019.

Complainant told DCR that she fell behind with her rent payments because Respondent refused to complete the paperwork when she first presented it to her in December 2018. The parties were advised that once she fell behind in her rent DCA would not pay any portion of rent accrued by Complainant prior to Respondent filling out the "Request for Tenancy Approval" paperwork and submitting it to the program. Complainant told DCR that without help from her rent subsidy, she was unable to pay the \$4,500.00 to Respondent.

ANALYSIS

At the conclusion of an investigation, the DCR Director is required to determine whether "probable cause exists to credit the allegations of the verified complaint." N.J.A.C. 13:4-10.2(a). For purposes of that determination, "probable cause" is defined as a "reasonable ground for suspicion supported by facts and circumstances strong enough in themselves to warrant a cautious person to believe" that the LAD was violated. N.J.A.C. 13:4-10.2(b).

A finding of probable cause is not an adjudication on the merits. It is merely an initial "culling-out process" in which DCR makes a threshold determination of "whether the matter should be brought to a halt or proceed to the next step on the road to an adjudication on the merits." Frank v. Ivy Club, 228 N.J. Super. 40, 56 (App. Div. 1988), rev'd on other grounds, 120 N.J. 73

(1990), cert. den., 498 U.S. 1073. Thus, the “quantum of evidence required to establish probable cause is less than that required by a complainant in order to prevail on the merits.” Ibid.

The LAD makes it unlawful to refuse to rent or lease to any person any real property because of the individual’s source of lawful income. N.J.S.A. 10:5-12(g)(1). The LAD also prohibits any person from stating, “directly or indirectly, any limitation, specification or discrimination as to” source of lawful income. N.J.S.A. 10:5-12(g)(3). Section 8 vouchers are a “source of lawful income” under the LAD, and housing providers cannot refuse to accept a tenant’s Section 8 voucher as payment for a portion of the monthly rent. Pasquince v. Brighton Arms Apartments, 378 N.J. Super. 588, 595-96 (App. Div. 2005).

Here, the investigation found sufficient evidence to support a reasonable suspicion that Respondent discriminated against Complainant based on her source of lawful income. Respondent confirmed that she wrote a letter stating that she would not accept Complainant’s Section 8 voucher and agreed that she did not accept the voucher before filing for Complainant’s eviction in January 2019. It is undisputed that Judge McClain ordered that Complainant vacate the property by May 31, 2019 for failing to pay rent between January and April 2019. While Complainant initially requested that Respondent complete the Section 8 paperwork in December 2018 to facilitate use of the Section 8 voucher, Respondent refused to complete the paperwork until ordered to do so by Judge McClain in April 2019.

The investigation showed that DCA does not make retroactive payments for rent accrued prior to it approving an application for use of a Section 8 Voucher at a specific property. Had Respondent filled out the “Request for Tenancy Approval” that Complainant provided to her in December of 2018, Complainant would have been able to pay her rent between January and April 2019, and Respondent would not have evicted her for failure to pay rent. In other words, Respondent’s refusal to accept Complainant’s source of lawful income resulted in Complainant eviction.

In addition, the letter that Respondent provided to Complainant stating that she refused to accept her Section 8 voucher is a per se violation of the LAD. N.J.S.A. 10:5-12(g)(3).

At this threshold stage in the process, there is sufficient basis to warrant “proceed[ing] to the next step on the road to an adjudication on the merits.” Frank, supra, 228 N.J. Super. at 56. Therefore, the Director finds probable cause to support Complainant’s allegations of source of lawful income discrimination and subjecting her to a prohibited statement.



Rachel Wainer Apter, Director
NJ Division on Civil Rights

Date: November 20, 2019