

STATE OF NEW JERSEY  
OFFICE OF THE ATTORNEY GENERAL  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION ON CIVIL RIGHTS  
OAL DOCKET NO. CRT 15861-13  
DCR DOCKET NO. EG14AU63759

Loretta Gilmore-Elsheikh, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 District 1199J National Union of Hospital )  
 and Health Care Employees, AFSCME, )  
 AFL-CIO, )  
 Respondent. )

Administrative Action

**FINDINGS, DETERMINATION  
AND ORDER**

**APPEARANCES:**

Thomas Mirigliano, Esq. (*Law Offices of Thomas R. Ashley, Esq.*, attorneys) for Complainant.  
Arnold Shep Cohen, Esq. (*Oxford Cohen, P.C.*, attorneys) for Respondent.

**BY THE DIRECTOR:**

On April 2, 2013, Loretta Gilmore-Elsheikh (Complainant), a 62-year old resident of Livingston, New Jersey, filed a verified complaint with the New Jersey Division on Civil Rights (DCR), alleging that her union, District 1199J National Union of Hospital and Health Care Employees AFSCME, AFL-CIO, discriminated against her based on age, in violation of the New Jersey Law Against Discrimination (LAD), N.J.S.A. 10:5-1 to -49. More specifically, Complainant alleged that the union refused to arbitrate her grievance against her employer regarding the termination of her employment, while the union arbitrated the grievances of younger union members who were faced with losing their jobs for similarly serious offenses. The union filed an answer denying the allegations of unlawful conduct in their entirety. During DCR's ensuing investigation, Complainant asked that the matter be transmitted to the Office of Administrative Law (OAL) for a hearing without a probable cause determination, pursuant to N.J.A.C. 13:4-11.1 (c). DCR then ceased its investigation and transmitted this case to OAL on October 31, 2013.

Administrative Law Judge (ALJ) Leslie Z. Celentano held a hearing in this matter on April 1, 2014. Complainant testified at the hearing and presented documentary evidence, and the union presented two witnesses and documentary evidence. The record was closed on June 9, 2014, and ALJ Celentano filed her initial decision on June 16, 2014.

In her decision, the ALJ noted that Complainant "asserts that what happened here had to do with personal feelings towards her because of her age," but that Complainant also asserted that the union's policies are "arbitrary." ID6. Ultimately, the ALJ found that Complainant presented no testimony or other evidence of differential treatment or discrimination based on age. ID7. Finding no evidence of any age-based disparate treatment in the record, the ALJ concluded that the union did not unlawfully discriminate against Complainant, and dismissed the complaint. Ibid.

In the initial decision, the ALJ notified the parties that they could file exceptions with DCR within thirteen days of the mailing date noted on the decision. (ID8.) In a June 17, 2014 letter to the parties, DCR reiterated the deadline for filing exceptions and noted that any party objecting to the ALJ's factual findings must provide DCR with transcripts of the relevant hearing testimony, or point to other supporting evidence in the record. On June 23, 2014, the union filed a submission urging the Director to adopt the dismissal of the complaint with prejudice. Complainant filed no exceptions.

After a thorough and independent evaluation of the initial decision and the documents comprising the OAL record, the Director finds no basis to reject the ALJ's factual findings or her conclusions of law based on those findings.<sup>1</sup> Accordingly, the Director adopts and incorporates by reference the ALJ's factual findings and conclusions of law, and dismisses the complaint with prejudice.

DATE: 7-7-14

  
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Craig Sashihara, Director  
NJ DIVISION ON CIVIL RIGHTS

<sup>1</sup> Because neither party provided the Director with portions of the transcript relevant to any exceptions, "no duty arose for the [Director] . . . to review them before deciding on a course of action regarding the findings and recommendations of the ALJ." See IMO Raymond Morrison, 216 N.J. Super. 143, 159 (App. Div. 1987).