

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
OFFICE OF THE ATTORNEY GENERAL
DIVISION ON CIVIL RIGHTS
OAL DOCKET NOS. CRT 10308-17 and 12850-17
DCR DOCKET NOS. EL11WG-64820 and EL11JG-66553

Kathleen Hruszko,)	
)	
Complainant,)	<u>Administrative Action</u>
)	
v.)	ORDER APPROVING SETTLEMENT
)	
New Jersey Department of Labor)	
and Workforce Development,)	
)	
Respondent.)	

APPEARANCES:

Nancy Mahony, Esq., for complainant Kathleen Hruszko

Christopher Weber, Deputy Attorney General, for respondent New Jersey Department of Labor and Workforce Development (Gurbir S. Grewal, Attorney General of New Jersey, attorney)

Farn-Yi D. Foo, Deputy Attorney General (Gurbir S. Grewal, Attorney General of New Jersey, attorney) monitoring this matter on behalf of the Division on Civil Rights

BY THE DIRECTOR:

On September 3, 2014, Kathleen Hruszko (Complainant) filed a verified complaint with the Division on Civil Rights (DCR) alleging that her employer, the New Jersey Department of Labor and Workforce Development (Respondent), declined to promote her because of her disability and/or age, in violation of the New Jersey Law Against Discrimination (LAD), N.J.S.A. 10:5-1 to -49. Respondent filed an answer denying the allegations of discrimination in their entirety.

On July 10, 2015, at Complainant's request, DCR transmitted the matter to the Office of Administrative Law (OAL) for a hearing pursuant to N.J.S.A. 10:5-13. On April 14, 2016, Complainant amended the complaint to include allegations of perceived disability discrimination and perceived age discrimination.

On February 28, 2017, an administrative law judge (ALJ) issued an initial decision granting summary decision in favor of Respondent. The initial decision was filed with the DCR Director for review. Complainant filed exceptions to the initial decision with DCR, to which Respondent responded.

By order dated July 17, 2017, the Director reversed the summary decision and remanded the matter for an administrative hearing. In so doing, the Director found, among other things, that the ALJ did not address Complainant's claims of disability discrimination. Noting that "[t]he bar to defeat a summary judgment motion is not set high," the Director found that the evidence created a material factual dispute that was required to be explored at a hearing, not dismissed on summary decision. Cf. Zive v. Stanley Roberts, 182 N.J. 436, 447 (2005) (noting that the evidentiary burden required to withstand summary judgment in LAD cases is "rather modest: it is to demonstrate to the court that plaintiff's factual scenario is compatible with discriminatory intent, i.e., that discrimination *could* be a reason for the employer's action.").

On June 20, 2016, while her first complaint was pending at OAL, Complainant filed a second verified complaint with DCR alleging that Respondent subjected her to unlawful retaliation. On September 1, 2017, DCR transmitted that case to OAL at Complainant's request pursuant to N.J.A.C. 13:4-11.1. By order dated October 27, 2017, the second complaint was consolidated with the remanded matter for hearing.

The parties reached an amicable resolution of the consolidated cases and, on or about May 2, 2018, submitted to the OAL a "Release and Settlement Agreement" signed by the parties.¹ On May 10, 2018, the Honorable Sarah G. Crowley, ALJ, issued an initial decision finding that the parties had voluntarily agreed to the settlement, that the settlement disposed of all issues in controversy between the parties, and that it was consistent with the law. On that basis, the ALJ approved the settlement and concluded the proceedings.

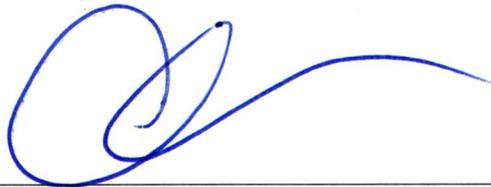
The Director has reviewed the pleadings and the ALJ's initial decision and finds good cause to adopt the ALJ's initial decision approving the settlement and concluding this matter. Accordingly, the complaints are hereby **DISMISSED WITH PREJUDICE**.² The initial decision is incorporated herein by reference and made a part of this administrative order.

¹ In a May 3, 2018 letter to the ALJ, counsel for Respondent identified errors in the settlement document regarding the docket numbers. Those errors have been corrected in the ALJ's initial decision and in this Order.

² With each complaint filed with DCR, Complainant filed corresponding charges under federal law with the United States Equal Employment Opportunity Commission (EEOC). Pursuant to a work-sharing agreement between the EEOC and DCR, Complainant waived further processing of her EEOC charges pending DCR's investigation of the LAD complaints. By the terms of the settlement, Complainant has released her federal law claims as well.

The settlement agreement between the parties contains a confidentiality and non-disclosure provision. That agreement binds the parties only. DCR's public disclosure obligations are governed by the Open Public Records Act (OPRA), N.J.S.A. 47:1A-1 et seq., and the common law right of access to public records.

DATED: 5-29-18



Craig Sashihara, Director
NJ DIVISION ON CIVIL RIGHTS