



Maine Human Rights Commission

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INVESTIGATOR'S REPORT

PA18-0433

September 17, 2019

Eric B. Schnitzer (Lewiston)

v.

Dunkin Doughnuts (Lewiston)¹

I. Summary of Case:

On November 2, 2018, Complainant filed a complaint with the Maine Human Rights Commission ("Commission") alleging that Respondent discriminated against him based on his disability when it refused to allow him to use his service animal. Respondent denied discrimination, and stated that Complainant did not inform Respondent of his disability and did not provide it with proof that his dog was a service animal.

II. Summary of Investigation:

The Investigator reviewed the following documents as part of the investigation: (i) Complaint filed by Complainant on November 2, 2018; (ii) Respondent's response received on January 18, 2019; (iii) Complainant's rebuttal received on February 7, 2019; and (iv) Complainant's responses to a request for additional information received on July 3, 2019.

III. Analysis:

The MHRA provides that the Commission or its delegated investigator "shall conduct such preliminary investigation as it determines necessary to determine whether there are reasonable grounds to believe that unlawful discrimination has occurred." 5 M.R.S. § 4612(1)(B). The Commission interprets the "reasonable grounds" standard to mean that there is at least an even chance of Complainant prevailing in a civil action.

Complainant has [REDACTED] and uses a service animal which has been trained to calm him when in public places, among other disability-related services and tasks. In or around early October 2018, Complainant and his service animal entered Respondent's store to purchase a beverage. The "Shift Leader" approached Complainant and asked whether the dog was a service animal, and whether it had a yellow tag on its vest. When Complainant stated that the animal did not have a

¹ Complainant named Dunkin Doughnuts as the Respondent in his complaint; Respondent provided that its legal name is Pacheco Food Service, LLC, and also referred to itself as K.P. Donuts Inc. d/b/a Dunkin Donuts in its submissions. Because Complainant has not amended his complaint to use Respondent's legal name, the name used by Complainant has been retained.

yellow sticker, Shift Leader told him that he could not be in the store with the animal.² Respondent stated that it did not know why Shift Leader believed a yellow sticker was required, but went on to assert it "cannot (and will not) allow animals to be brought unto the restaurant without proof that those animals are in fact service animals."


The MHRA prohibits discrimination on the basis of disability by any public accommodation. 5 M.R.S. §4592(1). With regard to service animals,³ the MHRA provides that it is unlawful for any public accommodation "to refuse to permit the use of a service animal . . . unless it is shown by defense that the service animal poses a direct threat to the health or safety of others or the use of the service animal would result in substantial physical damage to the property of others or would substantially interfere with the reasonable enjoyment of the public accommodation by others." 5 M.R.S. § 4592(8).

A public accommodation may make two specific inquiries to determine whether an animal qualifies as a service animal. A public accommodation may ask whether the animal is required because of a disability and what work or task the animal has been trained to perform. A public accommodation shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal. Me. Hum. Rights Comm'n Reg. Ch. 7, § 7.16(C)(6).

In this case, Complainant attempted to access the services of Respondent with his service animal and he was told by Shift Leader that he could not be in the store with the dog unless the dog had a yellow sticker on his vest. Whether or not Complainant was required to leave, it is undisputed that he was not allowed to use his service animal in the store. There is nothing in the record to suggest that the service animal posed any risk to health,⁴ store property, the enjoyment of the store by others. Accordingly, Respondent's refusal to permit the use of a service animal is a violation of the MHRA, as is the demand for some documentary "proof" that the animal is a service animal.

VI. Recommendation:

For the reasons stated above, it is recommended that the Commission find that there are **Reasonable Grounds** to believe that Dunkin Doughnuts discriminated against Eric B. Schnitzer on the basis of disability by refusing to remit the use of a service animal; and conciliation should be attempted in accordance with 5 M.R.S. § 4612(3).



Alice A. Neal, Chief Investigator
Katherine Skinner, Extern

² Complainant stated that he was asked to leave, while Respondent claimed that he was asked only to remove the dog. This factual dispute is immaterial to the result in this case.

³ A "service animal" is "a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability." 5 M.R.S. §4553(9-E)(B).

⁴ To the extent Respondent attempted to justify its removal of the animal with concerns about food safety laws, Maine law contains a specific exception to allow individuals to use their service animals in food service establishments. *See* 17 M.R.S. § 3966.