



Maine Human Rights Commission

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INVESTIGATOR'S REPORT MHRC No. H13-0588

Date Issued: December 27, 2013

████████████████████

v.

████████████████████

I. Complainant's Complaint:

Complainant ██████████ alleged that Respondent ██████████ threatened and interfered with her right to rent an apartment without discrimination and harassment based on sex.

II. Respondent's Answer:

Mr. ██████ did not respond to the complaint.

III. Jurisdictional Data:

- 1) Date of alleged discrimination: June 29, 2013.
- 2) Date complaint filed with the Maine Human Rights Commission: October 7, 2013.
- 3) Respondent is subject to the Maine Human Rights Act as well as the Commission's housing regulations.
- 4) Respondent is not represented by counsel. Complainant is not represented by counsel.
- 5) Investigative methods used: A thorough review of the written materials provided by the parties. This preliminary investigation is believed to be sufficient to enable the Commissioners to make a finding of "reasonable grounds" or "no reasonable grounds" in this case.

IV. Development of Facts:

- 1) The parties and issues in this case are as follows:
 - a) Ms. ██████ is female. She rents an apartment on the first floor of a three story apartment building in Norway, Maine.

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- b) At the time of these events, Mr. [REDACTED] Jr.'s father ("Senior") also rented an apartment on the first floor in the same building.
 - c) The issue in this case is interference with Ms. [REDACTED] right to rent an apartment without sexual harassment/discrimination based on sex.
- 2) The Complainant provided the following:
- a) Ms. [REDACTED] was subjected to sex discrimination and sexual harassment by Senior. Ms. [REDACTED] rejected Senior's sexual advances and requests for sexual favors and reported the harassment and other disturbances caused by Senior to the Norway Police Department. Senior was charged with crimes in connection with his mistreatment of Ms. [REDACTED]. The harassment occurred between December 2012 and September 2013.
 - b) On June 29, 2013, at about 10:30 AM, Mr. [REDACTED] Jr. was at Ms. [REDACTED] apartment building. [REDACTED] Jr. called Ms. [REDACTED] a "skank" and pushed her into the wall, shoved her, hit at her, and scratched her arm. Ms. [REDACTED] called the police but Mr. [REDACTED] Jr. left before the police arrived.
 - c) At about 12:25 PM, Mr. [REDACTED] Jr. was back at the apartment building yelling "skank" at Ms. [REDACTED] door. The police responded and charged Mr. [REDACTED] Jr. with assaulting Ms. [REDACTED] then arrested Mr. [REDACTED] Jr. for refusing to sign the Summons and Complaint for assault. When Mr. [REDACTED] Jr. was released shortly thereafter, he was required not to return to Ms. [REDACTED] apartment building and to have no contact with Ms. [REDACTED].
 - d) At about 12:53 PM, Mr. [REDACTED] Jr.'s brother stood in front of Ms. [REDACTED] door yelling, "pay back is a b*tch no one takes my brother to jail for nothing."
 - e) At about 6:55 PM, Ms. [REDACTED] saw Mr. [REDACTED] Jr. at her apartment building and called the police. The police responded but could not find him. Mr. [REDACTED] Jr. was suspected of going out a side window.
 - f) On August 16, 2013, Mr. [REDACTED] Jr. pled guilty to assaulting Ms. [REDACTED] and was fined \$300.00.
- 3) Complaints of discrimination were mailed to Respondent and his two brothers on October 7, 2013. The complaint against Respondent was mailed to him at [REDACTED], Poland, Maine 04274. The mail was not returned to the Commission as undeliverable. Complaints were also mailed to Respondent's two brothers. One of them, "Brother," contacted the Commission on October 9, 2013 and asked about the complaint and indicated that Respondent has also received one.
- 4) Respondent did not respond to the complaint.

V. Analysis:

- 1) The Maine Human Rights Act ("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

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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.

- 2) The MHRA provides, in part, that any person has the right to rent an apartment without discrimination on the basis of sex. 5 M.R.S. § 4581-A(1)(B); 94-C.M.R. ch. 8, § 8.04(a)(1).
- 3) The MHRA also provides, in part, that it is “unlawful for a person to coerce, intimidate, threaten or interfere with any individual in the exercise or enjoyment of the rights granted or protected by this Act . . .” 5 M.R.S. § 4633(2).

- 4) The Commission’s housing regulation, which interprets § 4633(2), provides that:

A. It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this part.

B. Conduct made unlawful under this section includes, but is not limited to. . .

(2) Threatening, intimidating or interfering with persons in their enjoyment of a dwelling because of the . . . sex . . . of such persons. . .

94-348 C.M.R. ch. 8, § 8.09.

- 5) Complainant here alleged that Respondent interfered with her right to rent an apartment without discrimination and harassment based on sex. Respondent did not deny the allegation.
- 6) A hostile housing environment claim is analyzed similarly to a hostile work environment claim. *See, e.g., Neudecker v. Boisclair Corp.*, 351 F.3d 361, 364-365 (8th Cir. 2003); *DiCenso v. Cisneros*, 96 F.3d 1004, 1008 (7th Cir. 1996); *Honce v. Vigil*, 1 F.3d 1085, 1090 (10th Cir. 1993).
- 7) Such a claim is actionable when unwelcome behavior because of protected class status unreasonably interferes with Complainant’s use and enjoyment of the premises. *See Honce*, 1 F.3d at 1090. Cf. Me. Hum. Rights Comm’n Reg. § 3.06(I) (1) (July 17, 1999) (employment). “Hostile environment claims involve repeated or intense harassment sufficiently severe or pervasive to create an abusive [housing] environment.” *Doyle v. Dep’t of Human Servs.*, 2003 ME 61, ¶ 23, 824 A.2d 48, 57 (employment case). In determining whether an actionable hostile housing environment exists, it is necessary to view “all the circumstances, including the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance. . . .” *Doyle*, 2003 ME 61, ¶ 23, 824 A.2d at 57. It is not necessary that the inappropriate conduct occur more than once so long as it is severe enough to cause the housing environment to become hostile or abusive. *Id.; Nadeau v. Rainbow Rugs*, 675 A.2d 973, 976 (Me. 1996) (employment). “The standard requires an objectively hostile or abusive environment--one that a reasonable person would find hostile or abusive--as well as the victim's subjective perception that the environment is abusive.” *Nadeau*, 675 A.2d at 976.
- 8) The fact that the conduct complained of is unwelcome must be communicated directly or indirectly to the perpetrator of the conduct. *See Lipsett v. University of Puerto Rico*, 864 F.2d 881, 898 (1st Cir. 1988) (employment).

- 9) Here, the evidence is undisputed that Respondent harassed Complainant at her home on July 29, 2013. Respondent repeatedly called her a "skank" and physically assaulted her. Respondent pushed Complainant into the wall, shoved her, hit at her, and scratched her arm. The harassment was based on sex because the physical attack was coupled with sexist slurs. The harassment rises to an unlawful level because it involved a physical assault. Respondent's conduct unreasonably interfered with Complainant's right to rent an apartment without discrimination on the basis of sex
- 10) The claim of intimidation, threats and/or interference is founded.

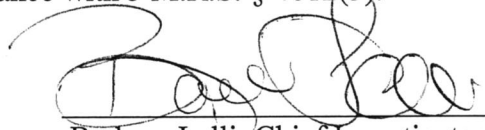
VI. Recommendation:

For the reasons stated above, it is recommended that the Maine Human Rights Commission issue the following finding:

- 1) There are **Reasonable Grounds** to believe that Respondent [REDACTED] intimidated, threatened and/or interfered with Complainant [REDACTED] in the exercise of her right to fair housing; and
- 2) Conciliation should be attempted in accordance with 5 M.R.S. § 4612(3).



Amy M. Sneirson, Executive Director



Barbara Lelli, Chief Investigator