



Maine Human Rights Commission

51 State House Station, Augusta, ME 04333-0051

Physical location: 19 Union Street, Augusta, ME 04330

Phone (207) 624-6290 ▪ Fax (207) 624-8729 ▪ TTY: Maine Relay 711

www.maine.gov/mhrc

Amy M. Sneirson
EXECUTIVE DIRECTOR

Barbara Archer Hirsch
COMMISSION COUNSEL

INVESTIGATOR'S REPORT MHRC No. H13-0586

Date Issued: December 27, 2013

[REDACTED]

v.

[REDACTED]

I. Complainant's Complaint:

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

II. Respondent's Answer:

Mr. [REDACTED] did not respond to the complaint.

III. Jurisdictional Data:

- 1) Dates of alleged discrimination: April 29 to November 10, 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. [REDACTED] is female. She rents an apartment on the first floor of a three story apartment building in Norway, Maine.

INVESTIGATOR'S REPORT H13-0586

- b) At the time of these events, Mr. [REDACTED] father ("Senior") also rented an apartment on the first floor in the same building.
 - c) The issue in this case is intimidation, threats, and/or interference with Ms. [REDACTED]'s 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 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.
 - b) On April 29, 2013, Ms. [REDACTED] called the police to report that Senior was playing very loud music. Police officers responded and told Senior to keep the noise down. After the police left, Senior screamed at Ms. [REDACTED] called her a "c*nt," and threatened to shoot her. Ms. [REDACTED] called the police again and when they arrived, Senior called an officer an a**hole and told an officer to "suck his dick." Senior was arrested for disorderly conduct and criminal threatening.
 - c) Later that day, after Senior was released from jail, Mr. [REDACTED] stood in the hallway between Ms. [REDACTED] and Senior's apartment and yelled out things that Senior should do to harass Ms. [REDACTED]. On April 30, 2013, Mr. [REDACTED] returned to the apartment building, stood in the hallway and talked very loudly as if to his father, saying that if he heard Ms. [REDACTED] "breathe, fart or anything, go after her" or call Mr. [REDACTED] and he would "go after her."
 - d) Also on April 30, 2013, Ms. [REDACTED] saw Mr. [REDACTED] in a yellow vehicle driven by his girlfriend while Ms. [REDACTED] was walking in town. Mr. [REDACTED] gave Ms. [REDACTED] the finger and the car swerved at her as she went by.
 - e) Ms. [REDACTED] made a written request for an order to cease harassment with the Norway Police Department. The request was approved and sent to the Oxford Police Department for service on Mr. [REDACTED]. Mr. [REDACTED]'s probation officer was also notified.
 - f) On June 1, 2013, at about 3 PM, Ms. [REDACTED] was at the Family Dollar store. Mr. [REDACTED] and his girlfriend came in. Mr. [REDACTED]'s girlfriend said that Ms. [REDACTED] had "rat's hair." Mr. [REDACTED] said that deodorant wouldn't work on Ms. [REDACTED] and gave her the finger.
 - g) On June 29, 2013, Mr. [REDACTED]'s brother ("Brother") called Ms. [REDACTED] a "skank" and assaulted her at her apartment building by pushing her into a screen door (her arm was scratched) and the wall. Ms. [REDACTED] called the police and Brother was arrested. Later that day, Mr. [REDACTED] stood outside Ms. [REDACTED] apartment door and said "payback is a b*tch, no one takes my brother to jail for nothing." Ms. [REDACTED] reported the harassment to the police.
 - h) On November 10, 2013, Mr. [REDACTED] and his other brother ("Brother-2") were sitting on Ms. [REDACTED] porch when she came home. Mr. [REDACTED] told Brother-2, "We better move or the f*cking b*tch is gonna have us arrested." Ms. [REDACTED] reported the harassment to the police.
- 3) Complaints of discrimination were mailed to Respondent and his two brothers on October 7, 2013. The complaint against Respondent was mailed to him in care of Senior, as was a complaint against

Respondent's brother ("Brother"). Brother contacted the Commission on October 9, 2013 and asked about the complaint and indicated that Respondent had 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 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 intimidated, threatened and 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 in her apartment on April 29 and 30, 2013 and on June 29, 2013. In April, Respondent stood in the hallway outside Complainant's apartment several time two days in a row and yelled out – as if to Senior – things that Senior should do to harass Complainant. Ms. [REDACTED] Respondent said that if Senior heard Complainant "breathe, fart or anything, go after her" or call Respondent and he would "go after her." In June, Respondent stood outside Complainant's apartment again and threatened "payback is a b*tch."¹ The harassment rises to an unlawful level because it consisted of repeated, significant threats that upset Complainant enough to seek help from the police.
- 10) Respondent harassed Complainant in April 2013 because she objected to Senior's sexist, criminal conduct toward her. Complainant called the police and reported that Senior had screamed at her, called her a "c*nt", and threatened to shoot her. Respondent harassed Complainant in June 2013 because she objected to Brother's similarly sexist, criminal conduct. Complainant called the police and reported that Brother called her a "skank" and assaulted her. Respondent harassed Complainant in November 2013 by referring to her as a "b*tch" as she passed him on the porch. The harassment all took place in the apartment building where Complainant lives.
- 11) It is possible that Respondent would have harassed Complainant no matter why she called the police against his father and brother. However, there is enough evidence here to support a finding of "reasonable grounds" that Respondent intimidated, threatened and interfered with Complainant's right to rent an apartment without discrimination and harassment on the basis of sex.
- 12) The claim of intimidation, threats and/or interference is founded.

¹ Respondent also harassed Complainant in the community by giving her the finger (two times) and making a derogatory comment. These incidents occurred on the street and in a store. This does not violate the Maine Human Rights Act because the harassment did not interfere with Complainant's housing.

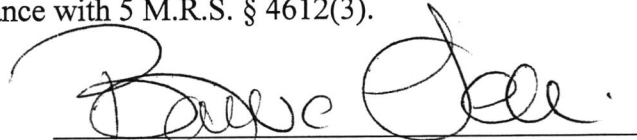
VI. Recommendation:

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