



Maine Human Rights Commission

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INVESTIGATOR'S REPORT
MHRC Case Number: E15-0526
October 13, 2017

Jo-Ann Kayatta (Portland)

v.

LG Funding d/b/a Cumberland County Mortgage (South Portland)

I. Summary of Case:

Complainant, who worked as a loan processor for Respondent, a mortgage company, alleged that Respondent discriminated against her based on age when it demoted her and terminated her employment. Respondent denied discrimination and stated that Complainant was discharged due to her bad attitude. The Investigator conducted a preliminary investigation, which included reviewing the documents submitted by the parties, holding an Issues & Resolution Conference ("IRC"), and requesting additional information. Based upon this information, the Investigator recommends that the Commission find no reasonable grounds to believe that Respondent discriminated against Complainant based on age in her demotion but find reasonable grounds to believe that Respondent discriminated against Complainant based on age in her discharge from employment.

II. Jurisdictional Data:

- 1) Dates of alleged discrimination: January 1, 2015 through January 23, 2015.
- 2) Date complaint filed with the Maine Human Rights Commission ("Commission"): November 16, 2015. Complainant filed an amended complaint with the Commission on August 8, 2017.
- 3) Respondent has three employees and is subject to the Maine Human Rights Act ("MHRA"), as well as state employment regulations.
- 4) Complainant is represented by Maria Fox, Esq. Respondent is represented by Frank K. Chowdry, Esq.

III. Development of Facts:

- 1) Complainant provided the following in support of her claim:

Complainant, who is 60 years old, has over 30 years' experience as a banking professional, primarily in the mortgage field. She had worked for Respondent's predecessor entity ("Predecessor") for five years when the business changed hands. Under the new management ("New Owner"), Complainant was

moved into a Loan Processing position, which was a demotion with lower pay. New Owner told Complainant her position would be changing, and then stated she acted “like his 60 year old mother-in-law” when she had an emotional reaction. New Owner hired a Loan Processor (“New Hire 1”) in her thirties to head technological improvements, and excluded Complainant from the process. Complainant welcomed the changes, but expressed some concerns regarding compliance with industry standards. Soon after, Respondent discharged Complainant and hired another Loan Processor (“New Hire 2”),¹ also in her thirties. While Respondent transitioned its business, it called Complainant’s methods “old world” and described Complainant’s much younger replacement as “new world”. New Owner had already decided she was not capable of adapting to new technology, based on age. Another employee (“Compliance Technician”) who was about to turn 60, and was Respondent’s next oldest employee, was discharged the same day as Complainant.

2) Respondent provided the following in support of its position:

When New Owner bought the business, he decided to reorganize. Respondent eliminated Complainant’s position, created four loan processor positions, and offered Complainant one of these positions. Complainant reacted very emotionally to this change and stormed out of the meeting. New Owner did compare Complainant to his mother-in-law, but only to describe her resistance to change.¹ Upon acquisition, Respondent brought in New Hire 1 as an additional loan processor to make technological improvements, working closely with Complainant. Complainant objected to the technological change, specifically stated she did not want to work with new technology, and continued to have a bad attitude.² Many witnesses in the office can testify to the negative atmosphere Complainant created, and Respondent received complaints from multiple real estate professionals. Complainant’s negativity was so widespread that New Owner had to dismiss an employee for the first time in his life.

3) The Investigator made the following findings of fact based on the documentation submitted by the parties and the information gathered at the IRC:

- a) September 4, 2012, Predecessor Owner hired Complainant as a production assistant,³ and in or around June 2014, she was promoted to operations manager. Predecessor’s business volume was high and Complainant was performing the tasks of a loan processor as well.
- b) Before acquiring the business, New Owner allegedly made some statement likening Complainant to his mother-in-law. Respondent could not recollect having made this statement.
- c) In November 2014, anticipating a change of ownership and business reorganization, New Owner met with Complainant. He informed Complainant he was eliminating her position and creating more loan

¹ In Respondent’s answer to the complaint, it provided that New Hire 1 and New Hire 2 were both born on December 6, 1983. Whether or not this is an error, it is uncontested both women were significantly younger than Complainant.

¹ Complainant knows New Owner’s mother-in-law socially. Respondent argued that New Owner’s comment was only a social reference; his mother-in-law had recently moved out of state and was struggling to adjust to change. Complainant stated she had not seen New Owner’s mother-in-law in two years, and that Respondent did not provide this context at the time of the statement.

² Respondent provided that Complainant was unhappy with her new position, New Hire 1, her assigned loan officers, Respondent’s business expanding, and moving out of her office.

³ It is notable that New Owner originally referred Complainant to Predecessor Owner for employment.