



Maine Human Rights Commission

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INVESTIGATOR'S REPORT MHRC Case Number: E18-0084-A/B June 6, 2019

Sarah Whynaught (Augusta)

v.

Creative Wood Products of Maine, Inc. (Wilton)¹
Michael Deschenes (Farmington)

I. Summary of Case:

On March 1, 2018, Complainant filed her Complaint with the Maine Human Rights Commission ("Commission") alleging that Respondent retaliated against her² and discriminated against her based on her sex³ and disability when he did not hire her. Respondent denied discrimination, stating that Complainant was pushy on the phone and he decided she was not right for the position.

II. Summary of Investigation:

The Investigator reviewed the following documents as part of the investigation: (i) Complaint filed by Complainant on March 1, 2018; (ii) Respondent's Response received on April 30, 2018; (iii) Amended Complaint filed by Complainant on July 18, 2018; (iv) Complainant's Rebuttal received on July 18, 2018; and (v) requests for additional information.

III. Analysis:

¹ Creative Wood Products of Maine, Inc. was the business owned by Respondent Michael Deschenes; he has since sold the business. Mr. Deschenes was named individually; since he was named as the business owner, rather than as an employee, *see Fuhrmann v. Staples the Office Superstore East, Inc.*, 2012 ME 135, the claim against him will proceed. Both Respondents will be referred to collectively in the report as Respondent.

² A retaliation claim will not be analyzed in this report because Complainant did not allege an independent basis for retaliation. Once Respondent did not hire Complainant, they had an additional conversation when Complainant immediately called him back. During this second call she asserted she was able to perform the duties of the position and he repeated that he was not going to hire her. Since the decision had already been made, there was no retaliatory adverse action when Respondent repeated his decision not to hire Complainant.

³ Complaint made a claim of sex discrimination based on a single comment made by Respondent where he referenced "women who were disabled" had been applying for the advertised position. While Complainant alleged other comments that supported an animus towards disabled individuals, she did not provide the same with regard to sex. In the circumstances of this case, there is insufficient evidence to establish that Complainant's sex was a reason for Respondent's decision not to hire her. This claim was unsubstantiated and will not be further analyzed in the report.