



Maine Human Rights Commission

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INVESTIGATOR'S REPORT

PA15-0419

March 27, 2017

Sean LaPlante (Glen, NH)

v.

Days Inn (Kittery, ME)

I. Summary of Case:

Complainant Sean LaPlante, a prospective guest of Respondent Days Inn (“Inn”), alleged that the Inn discriminated against him based on his disability when it refused to allow him to stay at the Inn with his service animal. The Inn denied discriminating against Complainant, stated that Complainant was turned away because his credit card was declined. The Investigator conducted a preliminary investigation, which included reviewing all of the documents submitted by the parties and requesting additional information. Based upon this information, the Investigator recommends that the Commission find that there are **reasonable grounds** to believe that the Inn unlawfully discriminated against Complainant based on his disability.

II. Jurisdictional Data:

- 1) Dates of alleged discrimination: November 8, 2014.
- 2) Date complaint filed with the Maine Human Rights Commission (“Commission”): August 26, 2015.
- 3) The Inn offers overnight accommodations to the public, and is a “public accommodation” subject to the Maine Human Rights Act (“MHRA”) and state public accommodation regulations.
- 4) Complainant is represented by Kristin Aiello, Esq. The Inn is represented by Philip Pettis, Esq.

III. Development of Facts:

- 1) Complainant provided the following in support of his claims:

Complainant suffers from a disability and requires the use of a service animal. On November 8, 2014, Complainant arrived at the Inn with his service animal to stay in a room that he had reserved prior to arrival. When Complainant got to the Inn, an employee at the front desk (“Employee”) asked Complainant to provide a license or certificate for the animal. When Complainant explained that he did not have a license or certificate with him, and by law was not required to have those documents, Employee became increasingly belligerent. Employee told Complainant that he could not find his reservation in the computer and then, that his reservation was cancelled because his credit card was declined. Complainant’s credit card was not actually declined. Complainant was frustrated, but remained

friendly and calm throughout. Complainant called the Inn's corporate franchise ("Corporate") customer service phone line to complain and an agent acknowledged the Inn had acted improperly. Corporate called the Inn to address the issue, however, the Inn continued to exclude Complainant.

2) The Inn provided the following in support of its position:

Although Complainant did make a reservation to stay at the Inn, the Inn has a practice of running credit cards that are holding reservations in advance of guests' arrival. Prior to Complainant's arrival, his credit card was processed and declined; this was the reason his reservation was cancelled. The Inn called Complainant to notify him of the cancellation at the time of the declination and left Complainant a voicemail. When Complainant arrived at the Inn and was told his reservation was cancelled, he seemed to understand the reason his stay was not approved. Complainant waited in the lobby for a referral to another hotel. After a short period of time, Complainant chose to leave the Inn of his own accord. The Inn recognizes the difference between service animals and pets. The Inn welcomes service animals.

3) The Investigator made the following findings of fact based on the documentation submitted by the parties:

- a) On November 7, 2014, Complainant made a reservation to stay at the Inn, located in Kittery.
- b) On November 8, 2014, Complainant went to the Inn with his service animal, a dog. When he arrived at the Inn, Complainant and Employee discussed the cancellation of Complainant's reservation.
- c) The Inn did not admit or deny that Employee asked Complainant questions about his service animal.
- d) The Inn told Complainant his reservation was cancelled because his credit card was declined. Complainant asked for documentation, but the Inn did not provide Complainant a copy of any information about the denial.¹
- e) The parties' interaction was not contentious.
- f) Complainant's credit card statements showed successful activity before and after November 8, 2014 without any evidence of his card otherwise being declined.
- g) Complainant's phone records reflected that he made two phone calls to Corporate's customer service line on November 8, 2014; the phone records did not show that the Inn called Complainant that day.

IV. Analysis:

- 1) The MHRA requires the Commission to "determine whether there are reasonable grounds to believe that unlawful discrimination has occurred." 5 M.R.S. § 4612(1)(B). The Commission interprets this standard to mean that there is at least an even chance of Complainant prevailing in a civil action.
- 2) The MHRA makes it unlawful: "[f]or any public accommodation or any person who is the owner, lessor, lessee, proprietor, operator, manager, [] or employee of any place of public accommodation to refuse to permit the use of a service animal or otherwise discriminate against an individual with a physical or mental disability who uses a service animal at the public accommodation unless it is shown by defense that the

¹ The Inn admitted it did not believe it provided Complainant with a copy of the declination. The Inn provided no guest would receive such a receipt. The Inn was also unable to provide the Investigator with evidence of the denial, and stated that it did not have access to such records.

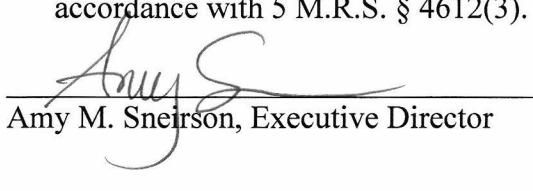
service animal poses a direct threat to the health or safety of others or the use of the service animal would result in substantial physical damage to the property of others who would substantially interfere with the reasonable enjoyment of the public accommodation by others.” 5 M.R.S. § 4592(8).

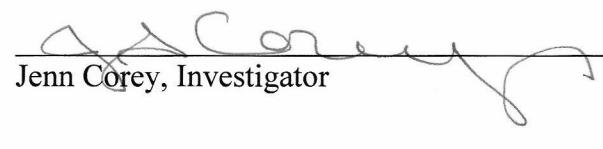
- 3) For public accommodations, the MHRA defines a service animal as “a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability... ” 5 M.R.S. § 4553(9-E)(B).
- 4) A public accommodation may make two specific inquiries to determine whether an animal is a service animal: 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. These inquiries may not be made when it is readily apparent than an animal is trained to do work or perform tasks for an individual with a disability. Me. Hum. Rights Comm'n Reg. Ch 7, § 7.16(C)(6).
- 5) Here, Complainant has shown that the Inn discriminated against him in access to services because of Complainant’s use of a service animal. Reasoning as follows:
 - a) The Inn never denied that its Employee made inquiries concerning Complainant’s service animal. It is unlawful to require documentation proving that a service animal is somehow certified as such.
 - b) Although the Inn stated that the service animal was not the reason Complainant was not allowed to stay, and that the issue was that his credit card was declined, the record is devoid of facts to support this claim.
 - i. The Inn did not produce evidence of Complainant’s card having been declined—either to Complainant at the time he arrived for his reservation or to the Investigator in response to the Commission’s requests. Complainant, however, provided financial statements that displayed successful activity before and after the time of the alleged declination and financial statements showed no evidence of an account being overdrawn or a credit card being declined.
 - ii. Complainant’s phone record showed no incoming calls from the Inn at the same time the Inn claimed it left Complainant a voicemail when his card was declined. The Inn failed to produce its own phone records.
 - c) The Inn did not suggest that Complainant’s service animal was a direct threat or a public safety concern, or would damage property or interfere with others’ enjoyment of the premises.
- 6) Discrimination on the basis of refusal to permit the use of a service animal is found.

VI. Recommendation:

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

There are **Reasonable Grounds** to believe that Respondent Days Inn discriminated against Complainant Sean LaPlante on the basis of his disability (service animal), and the claim should be conciliated in accordance with 5 M.R.S. § 4612(3).


Amy M. Snejerson, Executive Director


Jenn Corey, Investigator