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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of K.R., Department of
Military and Veterans Affairs

CSC Docket No. 2017-1910

Discrimination Appeal

ISSUED: **MAY 05 2017** (SLK)

K.R., a former¹ Senior Human Services Technician with the New Jersey Veterans Memorial Home Paramus, represented by Theresa Richardson, Esq. appeals the decision of the Deputy Commissioner, New Jersey Department of Military Affairs, which found sufficient evidence to support a finding that she violated the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

By way of background, C.A. an African-American Human Services Technician, alleged that K.R., an African-American, subjected her to national origin discrimination. Specifically, C.A. alleged that, on November 24 and 29, 2015, K.R. called her "Madame Africa" and stated to C.A. that she should "go back to where you belong[ed]" or made other similar derogatory statements about C.A.'s national origin. During the investigation, K.R. admitted that she had an adversarial conversation with C.A., but denied making derogatory statements. However, the investigation revealed that an independent witness corroborated overhearing K.R. making the alleged or similar statements to C.A. on these dates and several other times in the past.

On appeal, K.R. denies the allegations and states that she has proof that she was not working on the dates of the alleged incidents. She requests a transcript of the audio recording of the interview that she had with the Investigator where it was alleged that she made admissions.

¹ K.R. was removed from employment, effective June 8, 2016.

In response, the Office of Employee Relations (OER) states that during the investigation, K.R. admitted that she was present at the facility on November 24, 2015 and participated in a discussion with C.A. on that date and she signed a statement, dated January 28, 2016, which confirmed that she had a conversation with C.A. on that date. Additionally, K.R.'s time sheets indicate that she worked on November 24 and 29, 2015. Moreover, a co-worker corroborated that she personally witnessed K.R. making the alleged or similar discriminatory comments about C.A.'s national origin on these dates and that K.R. made discriminatory comments to C.A. about her national origin "all the time."

CONCLUSION

N.J.A.C. 4A:7-3.1(a) states, in pertinent part, that employment discrimination or harassment based upon a protected category, such as national origin, is prohibited and will not be tolerated.

N.J.A.C. 4A:7-3.2(i) provides that at the EEO's discretion, a prompt, thorough, and impartial investigation into the alleged harassment or discrimination will take place.

N.J.A.C. 4A:7-3-2(m)4 states, in pertinent part, that the appellant shall have the burden of proof in all discrimination appeals.

The Civil Service Commission (Commission) has conducted a review of the record in this matter and finds that the K.R. violated the State Policy. C.A. alleged that, on November 24 and 29, 2015, K.R. called her "Madame Africa" and told her that she should "go back to where you belong[ed]." A witness corroborated that K.R. made these or similar derogatory statements on these dates. As these or similar statements, especially when taken together, are clearly derogatory statements about C.A.'s national origin, these statements violate the State Policy.

In reference to K.R.'s comments that she did not work on the above mentioned dates, the OER submits time sheets which show otherwise. Further, although K.R. states that she would provide proof that she did not work on these dates, she has not submitted such proof. In response to K.R.'s request for a transcript of her interview with the Investigator, as these statements have been corroborated by a third-party, the allegations have been substantiated independent of her interview. Moreover, even if provided, such material would not be persuasive as all that K.R. admitted to during the investigation was having an adversarial conversation with C.A.

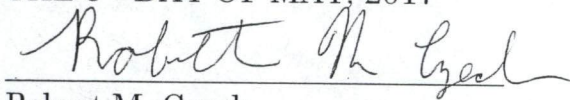
Thus, as an independent witness substantiated the allegations, the Commission finds that the investigation was thorough and impartial and the appellant has failed to meet her burden of proof.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 3rd DAY OF MAY, 2017



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Director
Division of Appeals
and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: K.R.
Theresa Richardson, Esq.
Susan C. Sweeney
Mamta Patel
Records Center