



B-19

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of V.S., Woodbridge  
Developmental Center

Discrimination Appeal

CSC Docket No. 2017-95

ISSUED: **JUN 09 2017** (ABR)

V.S., formerly a Cottage Training Supervisor with Woodbridge Developmental Center (WDC),<sup>1</sup> represented by Michele Long-Vickers, Executive Vice President of CWA Local 1040, appeals the determination of the Assistant Commissioner, Human Resources, Department of Human Services (DHS), which found that the appellant violated the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

L.C., a Cottage Training Technician,<sup>2</sup> filed a discrimination complaint against the appellant on October 20, 2014, alleging gender discrimination and retaliation. Specifically, L.C. maintained that the appellant tried to influence A.G., a Cottage Training Supervisor,<sup>3</sup> to falsely allege in a written statement that L.C. instigated an incident of workplace violence in 2011. She also claimed that V.S. told A.G. that L.C. was a "bitch" in front of other employees after A.G. refused to write the fictitious statement against L.C. The complaint was investigated by the DHS' Office of Equal Opportunity Employment (EEO). The EEO reviewed several Confidential Incident Statements and interviewed the appellant, L.C., A.G., and

<sup>1</sup> As a result of a January 9, 2015, reduction in force at WDC, V.S. was demoted, in lieu of a layoff, to the title of Residential Living Specialist at Trenton Psychiatric Hospital (TPH). Agency records indicate that the appellant continues to serve as a Residential Living Specialist at TPH.

<sup>2</sup> Following the January 2015 reduction in force at WDC, L.C. was reassigned to Hunterdon Developmental Center (HDC).

<sup>3</sup> Following the January 2015 reduction in force at WDC, A.G. was reassigned to TPH.

T.L., formerly a Residential Services Worker.<sup>4</sup> The EEO found that A.G. and T.L. corroborated L.C.'s allegation about the inappropriate comment.<sup>5</sup> The Assistant Commissioner, Human Resources, DHS, adopted the EEO's findings and issued a written warning to the appellant.

On appeal to the Civil Service Commission (Commission), the appellant maintains that she was not given an adequate opportunity to present her supporting witnesses to the EEO. By way of background, the appellant claims that she had previously initiated a disciplinary action against L.C. The appellant maintains that A.G. was sympathetic to L.C. and that both of them sought to destroy the appellant's reputation. Accordingly, the appellant claims that A.G. and L.C. made false statements to the EEO about the October 2014 incident. The appellant claims that she gave her supervisor, E.W., formerly a Supervisor of Professional Residential Services,<sup>6</sup> the names of A.C., formerly a Cottage Training Supervisor,<sup>7</sup> and J.T., a Cottage Training Technician,<sup>8</sup> as witnesses who could support her contentions regarding A.G. and L.C. The appellant submits that she advised the EEO investigator that A.C. and J.T. were witnesses as well. The appellant maintains that the EEO investigator "never asked if [she] had anymore witnesses since he must have only contacted one." The appellant claims that if she had known that the EEO had been unable to speak with A.C. or J.T., she would have told him to speak with P.M., a Supervisor of Professional Residential Services,<sup>9</sup> about her history of issues with A.G. and L.C.

The appellant also argues that the EEO erred in finding that she violated the State Policy based upon the testimony of A.G., L.C. and T.L. The appellant maintains that A.G.'s allegation that she called L.C. a "bitch" is unreliable, as the EEO's inability to corroborate A.G.'s allegation that the appellant tried to convince A.G. to write a fictitious statement established that A.G. was not credible. The appellant argues that the testimony of L.C. and T.L. is also not credible because they did not witness the underlying incident. Finally, the appellant argues that her "lack of prior disciplinary action" during her 23 years of State employment<sup>10</sup> also supports a reversal of the EEO's determination.

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<sup>4</sup> Following the January 2015 reduction in force at WDC, T.L. was laterally appointed, in lieu of a layoff, to the title of Senior Building Maintenance Worker at Green Brook Regional Center (GBRC).

<sup>5</sup> The EEO did not substantiate L.C.'s allegation that V.S. attempted to influence A.G. to bring a false charge against L.C. and L.C. has not appealed that finding in this matter.

<sup>6</sup> Following the January 2015 reduction in force at WDC, E.W. was reassigned to the Vineland Developmental Center. Subsequently, E.W. retired, effective December 1, 2016.

<sup>7</sup> Following the January 2015 reduction in force at WDC, A.C. was laterally appointed, in lieu of a layoff, to the title of Residential Living Specialist, Mental Health.

<sup>8</sup> Following the January 2015 reduction in force at WDC, J.T. was reassigned to HDC.

<sup>9</sup> Following the January 2015 reduction in force at WDC, P.M. was reassigned to GBRC.

<sup>10</sup> Agency records reveal that the appellant received official written reprimands in 2006, 2007 and 2011, and a one-day suspension in 2006.

In response, the EEO emphasizes that A.G.'s and T.L.'s corroboration of L.C.'s claim is sufficient evidence to sustain its finding that the appellant violated the State Policy. Accordingly, it maintains that the fact that L.C. was not present when the appellant called her a "bitch" is immaterial. In addition, the EEO states that the appellant did not identify any witnesses during its investigation. It notes that the appellant provided it with a handwritten statement and a typewritten statement documenting her interview with the EEO's investigator. It states that the appellant indicated in her written statement that her account therein contained everything she knew about the matters under investigation. It adds that the appellant did not identify any witnesses in either statement. The EEO also argues that statements from A.C. and J.T. would not undermine its determination, as the appellant has not made it clear that they witnessed the conversation at issue. Instead, the EEO suggests that on appeal, the appellant only indicates that A.C. and J.T. would speak to the nature of the relationship between A.G., L.C. and the appellant, not the specific incident at issue. The EEO maintains that its inability to substantiate an allegation that the appellant attempted to coerce A.G. to write a false statement about L.C. is irrelevant because T.L. was able to credibly corroborate the allegation that the appellant referred to L.C. as a "bitch."

### CONCLUSION

It is a violation of the State Policy to engage in any employment practice or procedure that treats an individual less favorably based upon any of the protected categories. See *N.J.A.C. 4A:7-3.1(a)3*. The protected categories include race, creed, color, national origin, nationality, ancestry, age, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability. See *N.J.A.C. 4A:7-3.1(a)*. It is a violation of the State Policy to use derogatory or demeaning references regarding a person's race, gender, age, religion, disability, affectional or sexual orientation, ethnic background or any other protected category. A violation of this policy can occur even if there was no intent on the part of an individual to harass or demean another. See *N.J.A.C. 4A:7-3.1(b)*. The State Policy is a zero tolerance policy. See *N.J.A.C. 4A:7-3.1(a)*. *N.J.A.C. 4A:7-3.1(a)* provides that the State Policy applies to both conduct that occurs in the workplace and conduct that occurs at any location which can reasonably be regarded as an extension of the workplace. Moreover, the appellant shall have the burden of proof in all discrimination appeals. See *N.J.A.C. 4A:7-3.2(m)4*.

In the instant matter, the appellant has failed to sustain her burden of proof. The EEO found that A.G. and T.L. credibly corroborated L.C.'s claim that the appellant told A.G. that L.C. was a "bitch" in the presence of other WDC employees. The EEO contends that the appellant did not apprise it of any other witnesses

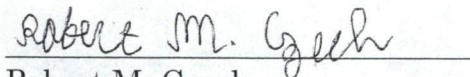
during its investigation. It maintains that the appellant presented it with a typed statement in which she acknowledged that her account contained everything she knew about the matters being investigated by the EEO and did not name any supporting witnesses. On appeal, the appellant has not refuted the EEO's claim that she provided it with written statements wherein she did not name any supporting witnesses and advised the EEO that the account therein reflected her complete knowledge of the incident at issue. As such, the appellant's unsupported assertion that she advised the EEO investigator about her other witnesses is unconvincing. Furthermore, even if the appellant had advised the EEO investigator that A.C. and J.T. should have been interviewed, the appellant has not made it clear that statements from those witnesses would have materially altered the outcome of the EEO's investigation. In that regard, it is noted that the appellant has not provided any supporting statements from A.C., L.T. or P.M. and has not made it clear how their statements would have refuted those of A.G., who was an acknowledged participant in the conversation at issue, as well as L.C. and T.L. Accordingly, the foregoing demonstrates that the appellant has failed to sustain her burden of proof in this matter and there is no basis to disturb the DHS' determination that the appellant violated the State Policy.

### 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 7<sup>TH</sup> DAY OF JUNE, 2017



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Chairperson

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and  
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