



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CRT 11136-96

Agency Dkt. No. EV02WM-40668-E

CATHERINE MITCHELL,

Complainant,

v.

CLARK POLICE DEPARTMENT,

Respondent.

Samuel J. Halpern, Esq., for complainant

Dennis J. Kwasnik, Esq., for respondent
(Ferro, Labella, Logerfo & Zucker, attorney)

Record Closed: February 17, 1998

Decided: March 23, 1998

BEFORE SEBASTIAN GAETA, JR., ALJ:

STATEMENT OF CASE AND PROCEDURAL HISTORY

Complainant, a police officer employed by respondent, Clark Police Department, filed a complaint of handicap and sex discrimination in employment contrary to the Law Against Discrimination, N.J.S.A. 10:5-1, *et seq.*

NEW JERSEY IS AN EQUAL OPPORTUNITY EMPLOYER

Her sworn complaint, dated March 5, 1996, asserts that she was discriminated against because of her sex and pregnancies. Her specific discrimination statement alleges that:

1. In August 1995, she was harassed by two male police officers, one of whom questioned her about working while pregnant;
2. That in August 1995 the chief of police denied her request for light duty while she was under the disability of pregnancy.

The matter was transmitted by the New Jersey Division on Civil Rights to the Office of Administrative Law as a contested case pursuant to *N.J.S.A. 52:14B-1* to 15 and *N.J.S.A. 52:14F-1* to 13.

Following a telephone conference with the parties, the Administrative Law Judge issued a Prehearing Order, dated March 12, 1997.

Hearings on the matter commenced September 24, 1997. During that hearing, respondent objected to evidence of alleged discrimination, which was in addition to the distinct events contained in the complaint and after the date of that complaint.

Complainant was granted leave to file a motion to amend the complaint. That motion and supporting documents were received on October 14, 1997. The Clark Police Department responded with a motion to limit testimony to events occurring prior to the date of the complaint. That motion and supporting papers were received October 15, 1997.

On November 14, 1997, the Administrative Law Judge issued Orders granting complainant's motion to amend the complaint and denying respondent's motion to limit testimony and proofs.

CONCLUSION

For a time, complainant was one of two female Township of Clark police officers, now she is the only one.

There is no doubt that, at times, it has been difficult for her. On occasion her ability to perform her job, because of her sex and pregnancy, has been questioned by fellow officers.

With regard to Sergeant Hedinger, what may have occurred between complainant and him, he has subsequently refused to acknowledge her. To be ostracized by even one officer, particularly one superior in rank, is not easy to deal with. While Sergeant Hedinger's obdurate attitude is not in the best interests of the Department, it appears that the Chief of Police has adopted a reasonable and prudent course.

They do not serve in the same platoon, and should circumstances have them on duty at the same time, Chief Danco has made it clear that he expects each to act in a completely professional manner.

Clearly, inappropriate actions by fellow officers can create a hostile work environment which would constitute unlawful discrimination.

Although complainant never filed a formal grievance, she did informally complain to supervisors. There was no showing that, on these occasions, she was rebuffed.

Instead, supervisors did intercede on her behalf and offered to serve as mediator to resolve differences.

No disciplinary action was taken against complainant. Any corrective action was warranted under the circumstances and was evenhanded.

Despite individually expressed reservations about her performance of duty, the senior leadership finds her to be a satisfactory officer.

Considering her experience and ability, it would be expected that complainant will enjoy a full and productive law enforcement career.

FINDING

During her tenure as a Clark police officer, complainant has not been subject to a hostile work environment.

ORDER

It is **ORDERED** that complainant's complaint of discrimination be and is **DISMISSED**.

I hereby **FILE** my initial decision with the **DIRECTOR OF THE DIVISION ON CIVIL RIGHTS** for consideration.

This recommended decision may be adopted, modified or rejected by **DIRECTOR OF THE DIVISION ON CIVIL RIGHTS**, who by law is authorized to make a final decision in this matter. If the Director of the Division on Civil Rights does not adopt, modify or reject this decision within forty-five (45) days and unless such time

limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen (13) days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **ASSISTANT DIRECTOR, BUREAU OF POLICY, DIVISION ON CIVIL RIGHTS, 140 E. Front Street, PO Box 089, Trenton, New Jersey 08625-0089**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

March 23, 1998
DATE

Sebastian Gaeta, Jr.
SEBASTIAN GAETA, JR., ALJ

Receipt Acknowledged:

3/25/98
DATE

E. C. Hargrove
DIVISION OF CIVIL RIGHTS

Mailed to Parties:

MAR 26 1998
DATE

Barbara A. Harnes
OFFICE OF ADMINISTRATIVE LAW