

CONNECTICUT COMMISSION on HUMAN RIGHTS & OPPORTUNITIES

Office of Public Hearings

Human Rights Referees

June 24, 1999

Laurie Turner
32 Kossuth Street, Apt. 2-R
Norwalk, CT 06854

Rebecca Johnson
P.O. Box 1512
Bridgeport, CT 06601

Ritz Realty
Ms. Edna Edwards
24 Belden Ave.
Norwalk, CT 06854

Quality Towing
President
162 West Street
Brooklyn, NY 11222

Hon. Lara L. Manzione, Chief
Hon. Gordon T. Allen
Hon. Jon P. FitzGerald
Hon. Lisa B. Gilberto
Hon. David S. Knishkowsky
Hon. Leonard E. Trojanowski
Hon. Donna Maria Wilkerson

RE: Complainant's/Respondent's Final Order and Memorandum of Decision (via default) PH Case Nos 9920135 and 9920136 Commission on Human Rights and Opportunities ex rel. Laurie Turner and Rebecca Johnson v. Ritz Realty/Quality Towing.

Dear Parties,

Transmitted herewith is a copy of the Presiding Officer's Memorandum of Decision upon the complaint.

Section 46a-94a of the Connecticut General Statutes provides, in part, that the Commission on Human Rights and Opportunities, any respondent or any complainant aggrieved by a Final Order of a Hearing Officer may appeal therefrom in accordance with Section 4-183. The Uniform Administrative Procedure Act (Conn. Gen. Stat. Sec. 4-166, et. seq.) and other appropriate statutory provisions should be consulted as to the requirements for appeal and reconsideration. Any appeal or reconsideration request must strictly comply with all applicable statutory requirements and timeframes. You may wish to consult with counsel relative to your appeal and reconsideration rights.

Should the Commission, on its own motion, seek to petition for reconsideration, and/or to file an appeal to the Superior Court, you will be so informed.

The decision is being sent to you by certified mail. The return post office receipt shall be proof of such service.

Very truly yours,

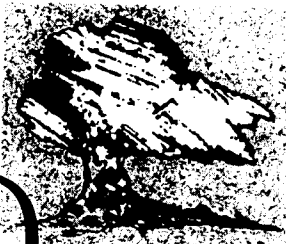
[Signature]
Amy Galer-Pasternak
Public Hearing Administrator

Enclosure

- cc: Human Rights Referee Jon P. FitzGerald
Commission Counsel Philip A. Murphy, Jr.
Deputy Commission Counsel Raymond Pech
Assistant Attorney General Emily Melendez
Attorney Andrew Holding

Certified Mail Nos. Z 121 490 095
Z 121 490 096
Z 121 490 097
Z 121 490 098

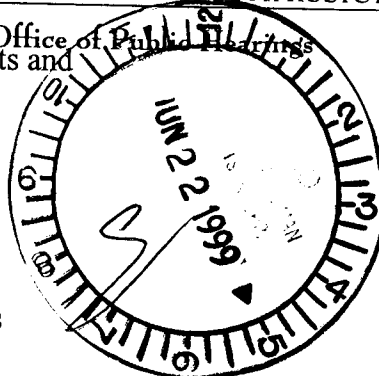




CONNECTICUT COMMISSION on HUMAN RIGHTS & OPPORTUNITIES

Commission on Human Rights and Opportunities, ex rel. Laurie Turner Rebecca Johnson Complainants

v. Ritz Realty, Quality Towing, Respondents



: CHRO # 9920135 : CHRO # 9920136

: June 22, 1999

FINAL DECISION

On October 20, 1998 the complainants, Laurie Turner ("Turner") and Rebecca L. Johnson ("Johnson"), filed a complaint with the Commission on Human Rights and Opportunities ("Commission"). The complainants alleged that on June 11, 1998 they were illegally discriminated against by the respondents, Ritz Realty, Inc. and Quality Towing Corp., in that they were denied access to a public facility on the basis of race, color, and gender in violation of General Statutes § 46a-64(a)(1). For the reasons discussed below, Turner is awarded \$125.00 against the respondents, jointly and severally. Johnson is awarded no damages.

I

PARTIES

Complainants are Laurie Turner, 32 Kossuth Street, Apt 2-R, Norwalk, CT 06854, and Rebecca L. Johnson, P.O. Box 1512, Bridgeport, CT 06601. The Commission on Human Rights and Opportunities is located at 21 Grand Street, Hartford, CT 06106. The Commission was represented by Assistant Attorney General Emily V. Melendez, of the Office of the Attorney General, 50 Elm Street, P.O. Box 120, Hartford, CT 06141-0120.



Respondents are Ritz Realty, Inc., 24 Belden Avenue, Norwalk, CT 06854, and Quality Towing Corp., 2 Belden Avenue, Suite 95, Norwalk, CT 06854. Ritz Realty was represented by the Law Office of Rome, McGuigan, Sabanosh, P.C., 1000 Lafayette Boulevard, Bridgeport, CT 06604-8005.

II

PROCEDURAL HISTORY

The complaints were filed on October 20, 1998. On January 22, 1999 the Acting Executive Director entered a Default Order and Notice of Public Hearing pursuant to General Statutes § 46a-83. Pursuant to §§ 46a-83 and 46a-84 a presiding officer was appointed to determine the relief necessary to eliminate the discriminatory practice complained of and make the complainant whole. Notice was given that a hearing was scheduled for February 25, 1999.

On February 22, 1999 the Commission filed a motion for continuance of the hearing in damages. On February 24, 1999 the Commission filed an amended motion for continuance of the hearing in damages. The amended motion was granted and the hearing in damages was continued to April 29, 1999. Also, the captioned matters were consolidated.

At the hearing in damages on April 29, 1999 Attorney Andrew L. Houlding of Rome, McGuigan, Sabanosh, P.C. appeared on behalf of Ritz Realty and filed a motion to open the default entered by the Acting Executive Director. Ritz Realty also orally moved that Johnson, a practicing attorney, be disqualified from representing Turner. On the

record the motion to open was referred to the Interim Executive Director for her consideration and the hearing in damages was continued to May 26, 1999. A written order was issued on May 5, 1999 confirming the continuance of the hearing in damages to May 26, 1999. On May 18, 1999 a written order was issued granting Ritz Realty's oral motion to disqualify Johnson as attorney for Turner.

By motion dated May 17, 1999 Ritz Realty requested a continuance of the hearing in damages to an unspecified date in the future. The motion was denied. By motion dated May 25, 1999 the Commission requested a continuance of the hearing in damages to June 18, 1999 because the Interim Executive Director had failed to consider the respondent's motion to open. The motion was granted.

On June 16, 1999 the Commission filed a motion to continue the hearing in damages scheduled for June 18, 1999 because the Interim Executive Director had still failed to respond to Ritz Realty's motion to open. The Commission proposed dates in September for the continuance. The motion was denied.

On June 18, 1999 the Interim Executive Director filed her denial of Ritz Realty's motion to open. The presiding human rights referee also denied the motion to open. The Commission and Ritz Realty made oral motions to continue the hearing in damages. The motions were denied and the hearing in damages proceeded. The Commission submitted exhibits but called no witnesses. Ritz Realty submitted no exhibits nor called any witnesses. Turner and Johnson failed to appear at the hearing.

III

FINDINGS OF FACT

In any hearing in damages upon default, the respondent is not permitted to offer evidence to contradict any allegations in the complaint, except such as relate to the amount of damages. Based upon the complaint and the exhibits admitted into evidence, the following facts are found:

1. Turner is a female of Native American (Indian) and Portuguese descent.
2. Johnson is an African-American female.
3. On June 11, 1998 Turner parked her automobile, in which Johnson was a passenger, in the Riverview Plaza, a public parking lot facility located in Norwalk, Connecticut. The facility is managed and controlled by Ritz Realty.
4. In the parking lot is a posted sign that reads: "Warning private property parking for patrons of Riverview Plaza only while inside the store(s). Parking regulations in effect 24 hours 7 days. Any vehicle in violation of these rules will be immediately immobilized. Release fee is \$125.00. Quality Towing Corp. 1 800 239-6765."
5. Notwithstanding the sign, complainants also conducted business outside of the plaza as well as within.
6. Upon their return to the parking lot the complainants discovered that an immobilizer (commonly referred to as a "boot") had been attached to Turner's automobile.

7. The complainants complained to Edna Edwards, of Ritz Realty, and to Quality Towing attendants that the automobile had been improperly booted. However, the immobilizer was not removed.
8. Turner paid the release fee of \$125.00.
9. During the complainants' conversation with the Quality Towing attendants, a Caucasian male attorney approached the attendants from the direction of the courthouse. His automobile had also been immobilized. His vehicle was released without payment of the fee as he conducted business with the owner of the company.

IV

PARTIES' POSITIONS

At the hearing in damages on June 18, 1999 the Assistant Attorney General requested damages in the amount of \$2,500.00 for each complainant as emotional distress and \$125.00 to reimburse Turner for the cost of having the immobilizer removed from her automobile tire. Ritz Realty argued that as there was no testimony as to the emotional distress incurred by the complainants, no damages should be awarded.

CONCLUSIONS OF LAW

1. Respondents were given legally sufficient notice of the Default Order and Hearing in Damages.
2. The Acting Executive Director had the authority to enter the Default Order and Notice of Public Hearing pursuant to General Statutes § 46a-83.
3. The entry of default established the respondents' liability for violation of General Statutes § 46a-64(a)(1).
4. The presiding officer is authorized to award damages to eliminate the discriminatory practice and make the complainant whole pursuant to General Statutes § § 46a-83(i) and 46a-84(f).
5. The presiding officer is authorized to award damages for emotional distress in this case pursuant to General Statutes § 46a-86(c) and *Bridgeport Hospital v. Commission on Human Rights and Opportunities*, 232 Conn. 91, 100-103 (1995).
6. Criteria to be considered in awarding emotional distress damages include: "(1) the subjective internal emotional reaction of the Complainant to the discriminatory experience, (2) whether the discrimination occurred in front of other people, and (3) the degree of offensiveness of the discrimination and the impact on the Complainant." (Citations omitted.) *CHRO ex rel. Lynne Thomas v. Samuel Mills*, CHRO Case No. 9510408, p. 7 (1998).

VI

ANALYSIS

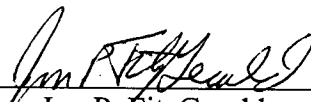
As a result of the immobilizing of her automobile, Turner sustained economic damages of \$125.00 as the removal fee. Johnson incurred no economic damages.

Because both complainants failed to attend the hearing, the presiding officer has no information upon which to base an award for emotional distress. Without testimony, subject to cross-examination, on factors including the reaction of the complainants and the impact upon them resulting from the respondents' actions, there is no basis for the exercise of reasonable discretion in awarding emotional distress damages.

VII

ORDER OF RELIEF

Turner is awarded \$125.00 against the respondents, Ritz Realty, Inc. and Quality Towing Corp., jointly and severally.



Hon. Jon P. FitzGerald
Presiding Human Rights Referee

c: Atty. Emily V. Melendez
Atty. Rebecca L. Johnson
Laurie Turner
Ritz Realty
Quality Towing
Atty. Andrew L. Houlding