



State of Connecticut
COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES
OFFICE OF PUBLIC HEARINGS

450 Columbus Blvd, Suite 2, Hartford, CT 06103
Telephone: 860-418-8770; Fax: 860-418-8780
E-mail: officeofpublichearings@ct.gov

Promoting Equality and Justice for all People

May 18, 2022

CHRO ex rel. Sonya Green v. Dave Alexander CHRO No. 2050172.

DECISION RE HEARING IN DAMAGES

Dear Complainant/Respondent/Commission:

Transmitted herewith is a copy of the Presiding Referee's Final Decision Re Hearing in Damages in the above captioned complaint.

The decision is being sent via email to the commission, complainant and respondent.

Very Truly yours,


Kimberly D. Morris
Secretary II

cc.

Holly A. Wonneberger, Esq.
Holly.wonneberger@ct.gov

Sonya Green
sonyamowatt@gmail.com

Dave Alexander
744 Burnside Ave.
East Hartford CT 06108
7021 1970 0001 7209 8170

STATE OF CONNECTICUT
COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES
OFFICE OF PUBLIC HEARINGS

Commission on Human Rights and
Opportunities ex rel. Sonja A. Green

CHRO 2050172

v.

Dave Alexander

May 18, 2022

FINAL DECISION
FOLLOWING A HEARING IN DAMAGES

I
PRELIMINARY STATEMENT

OFFICE OF
PUBLIC HEARINGS - CHRO
DATE 5/18/22
TIME 9:00 AM
RECEIVED BY [Signature]

Sonja A. Green, the complainant, filed her affidavit of illegal discriminatory practice (affidavit) with the Commission on Human Rights and Opportunities (commission) on May 6, 2020. In her affidavit, she alleged that the respondent, Dave Alexander, her former landlord, violated General Statutes § 46a-64c. She further alleged that he also violated Title VIII of the Civil Rights Act of 1968, as amended, (Title VIII) and the Americans with Disabilities Act of 1973, as amended (ADA) as enforced through General Statutes § 46a-58 (a). According to Ms. Green, Mr. Alexander discriminated against her in the terms, conditions and privileges of her rental on the basis of her mental and physical disabilities, and he also denied her a reasonable accommodation.

Pursuant to General Statutes § 46a-83 (l) and Section 46a-54-46a of the Regulations of Connecticut State Agencies, the executive director defaulted Mr. Alexander on November 6, 2020 for his failure to file an answer under oath to the affidavit.

The commission then transferred the affidavit and case to the office of public hearings to conduct a hearing in damages.

The hearing in damages was held on December 21, 2021. Ms. Green and Mr. Alexander did not appear and the record was closed. The commission's subsequent motion to open the record was granted and, on March 17, 2022, a hearing in damages was held. The commission and Ms. Green appeared to prosecute the action. Mr. Alexander again did not appear. Post-hearing briefs were due on May 12, 2022, at which time the record closed.

For the reasons stated herein, Dave Alexander is found to have discriminated against Sonja A. Green. Relief is ordered as set forth herein.

II PARTIES

The parties to this action are the Commission on Human Rights and Opportunities, 450 Columbus Boulevard, Hartford, Connecticut; Sonja Green, 51 Hartford Turnpike, Vernon, Connecticut; and Dave Alexander, 744 Burnside Avenue, East Hartford, Connecticut.

III FINDINGS OF FACT

References to testimony in the transcript are designated as "Tr." followed by the page number. The commission's exhibits are designed by "CHRO" followed by the exhibit number.

“Failure to answer any allegation or part of an allegation shall be deemed an admission of such allegation without the need for further proof.” Regs., Conn. State Agencies § 46a-54-86a (b).

Based upon the pleadings, exhibits and an assessment of the credibility of the witness, the following facts relevant to this decision are found:

1. All procedural, notice and jurisdictional prerequisites have been satisfied and this matter is properly before this presiding officer to hear the affidavit and render a decision. (CHRO 2, 5, 8).
2. Ms. Green is disabled. She has mental and physical disabilities including: bi-polar manic depression, anxiety, post traumatic syndrome disorder, panic attacks, mobility impairment, arthritis, osteoarthritis, chronic migraines, bone spurs, carpal tunnel in both hands, a broken right ankle with three pins, and a sleep disorder. She is at substantial risk for falling. She has previously broken and fractured her bones. Tr. 9 – 10; Affidavit, ¶ 4; CHRO 11.
3. These conditions limit the activities Ms. Green can engage in and the places she can go. These conditions also cause her to drop things. Tr. 9 – 11.
4. Mr. Alexander is the owner of a two-story, two-family home located at 744-754 Burnside Avenue, East Hartford, Connecticut. Affidavit, ¶ 3. CHRO 9; Tr. 11.
5. Mr. Alexander lived in the basement of the house. Tr. 19.
6. Ms. Green and Mr. Alexander entered into a one-year written lease for the first floor with a term from September 1, 2019 to August 31, 2020. Tr. 12; Affidavit, ¶ 5. She moved into the apartment on September 1, 2019. Affidavit, ¶ 5; Tr. 11.

7. There was a tenant on the second floor. Tr. 23; Affidavit, ¶ 4.
8. The tenant on the second floor had no known or visible mental or physical disabilities. Tr. 37; Affidavit, ¶ 4.
9. Mr. Alexander was aware of Ms. Green's disabilities prior to her moving into the apartment. Tr. 11; Affidavit, ¶ 4..
10. Ms. Green was the recipient of Section 8 rental assistance. Tr. 13; Affidavit, ¶ 5.
11. During her tenancy, Ms. Green paid her portion of the rent as required by her Section 8 assistance. Affidavit, ¶ 6.
12. Although Ms. Green was current in her rent, Mr. Alexander served her with a notice to quit for non-payment of rent on December 5, 2020 and a summary process complaint thereafter. Tr. 18 – 19; Affidavit, ¶ 6; CHRO 10.
13. Mr. Alexander and Ms. Green subsequently entered into a final stipulation on January 27, 2020 based on lapse of time with a date of April 30, 2020 for Ms. Green to vacate the apartment. Affidavit, ¶ 7.
14. In early January 2020, Mr. Alexander began turning off the heat and hot water in Ms. Green's apartment. This exacerbated her mental and physical disabilities. Tr. 23 – 25; Affidavit, ¶ 8.
15. On January 14, 2020, Ms. Green texted a request to Mr. Alexander that as a reasonable accommodation to her disabilities he not shut off the heat and hot water. Tr. 17; Affidavit, ¶ 9; CHRO 12.
16. Instead of restoring the heat and hot water, Mr. Alexander reduced the water pressure for the shower. Tr. 21.

17. The lack of heat exacerbated Ms. Green's asthma. She had to get space heaters to keep warm. The use of space heaters made her feel restricted in her own apartment because she had pre-existing mobility problems and now had to drag the space heater around the apartment. Tr. 24
18. Mr. Alexander's refusal to provide heat and hot water lasted for months. Tr. 23.
19. Mr. Alexander did not cut off the heat and hot water to the non-disabled tenant on the second floor. Affidavit, ¶13; Tr. 23.
20. Mr. Alexander removed Ms. Green's mail box so that she could not get mail. Tr. 21 – 22.
21. Mr. Alexander removed decorations, a white board, and other items from Ms. Green's door. He destroyed them and left them strewn around the front yard. Tr. 22, 35 – 37; Affidavit, ¶12.
22. Mr. Alexander entered her apartment, took items of her personal property, and threw them away. Tr. 19.
23. Mr. Alexander did not damage the personal property of the second floor, non-disabled tenant. Tr. 36 – 37; Affidavit, ¶¶ 12, 13.
24. Because Mr. Alexander refused to pay the natural gas bill, the gas service to Ms. Green's apartment was cut off. Tr. 22 – 23.
25. After Ms. Green had a plumber get the natural gas service restored, Mr. Alexander again tampered with it. Tr. 21.

26. Mr. Alexander cut off Ms. Green's access to the internet. Ms. Green then obtained her own service. Mr. Alexander entered her apartment and locked up her cabinets so that she could not access the contents. Tr. 21.
27. In early February 2020, Ms. Green again approached Mr. Alexander. She requested that as a reasonable accommodation he restore her heat and hot water. Affidavit, ¶ 10.
28. Mr. Alexander verbally refused the requested accommodation. Affidavit, ¶ 10. Ms. Green had approached Mr. Alexander as he was in his motor vehicle and he nearly ran over her foot. Tr. 35.
29. Ms. Green complained to officials of the Town of East Hartford. Initially, the town was uncooperative in forcing Mr. Alexander to comply with applicable health and building codes. The town claimed that the dispute was a civil matter between Ms. Green and Mr. Alexander. Tr. 27 – 28; Affidavit, ¶ 8.
30. Subsequently, as a result of the conditions caused by Mr. Alexander, the town required Ms. Green to move out of the apartment and into a motel room paid for by the town. Affidavit, ¶ 11; Tr. 25 – 26.
31. The conditions of the motel room were horrible. There were cockroaches, bugs, and rude staff. Tr. 26.
32. After three months in that motel, and because Mr. Alexander had failed to rectify the health problems at the apartment, the town moved Ms. Green into another motel that was worse than the first. Tr. 26.

33. While living in the second motel, Ms. Green was unable to get a full night's sleep, waking up between 2:30 and 3:00 every morning. She lost weight, her hair started falling out, and her prescription medication dosage had to be increased. Tr. 34.
34. Living in the motel increased Ms. Green's depression and anxiety. Tr. 34.
35. The second motel was extremely dirty and dusty. Tr. 26.
36. The dirt and dust in the motel so aggravated Ms. Green's asthma that she had to return to the apartment. Tr. 26.
37. A friend of Ms. Green's put the natural gas into the friend's name so that Ms. Green could return to the apartment. Tr. 26.
38. Ms. Green found the situation very stressful. Tr. 27.
39. Ms. Green made a request for accommodation to Mr. Alexander that he add grab bars to make it easier for her to get around the apartment. He again refused. Tr. 28 – 29, 32. Without grab bars and similar measures it was difficult for Ms. Green to move around the apartment without someone to assist her. Tr. 11.
40. Mr. Alexander's refusal to make reasonable accommodations for Ms. Green made living in the apartment very difficult for her. Tr. 31.
41. When Mr. Alexander turned off the hot water, Ms. Green had to bath in cold water. It made her feel like an animal. Tr. 21.
42. Mr. Alexander's treatment of Ms. Green made her feel very depressed. Tr. 24 – 25, 33.
43. Mr. Alexander's treatment of Ms. Green caused her to have more falls than usual because her mind was cloudy. Tr. 25, 33.

44. Mr. Alexander's treatment of Ms. Green caused her anxiety level to rise and to start hallucinating. Tr. 25, 33.
45. Mr. Alexander's treatment of Ms. Green caused her to have the doses of her prescription medication increased. Tr. 25.
46. As a result of the eviction and conditions caused by Mr. Alexander's discriminatory conduct, Ms. Green now lives in a different apartment. This apartment is in a dangerous neighborhood. She can hear gunshots from her apartment. She is afraid to leave the apartment alone or to go out at all at night. Tr. 37.
47. There is a mice infestation in Ms. Green's new apartment. They get on her kitchen table and in the bathroom. The mice have defecated on, urinated on, and damaged her clothes. She has had to throw them away. She feels like she is watching pieces of her life just get thrown away and it hurts her. Tr. 38.
48. Living in the mice-infested apartment has damaged Ms. Green's physical health. Her heart rate is up. She drops objects that she is trying to carry. She is out of breath walking up stairs and must stop mid-way because she cannot breathe. Her white blood cell count, red blood cell count and magnesium levels have all dropped to critically low levels. Tr. 39 – 40.

IV APPLICABLE STATUTES AND REGULATIONS

A respondent must file an answer under oath to the affidavit. General Statutes § 46a-83 (a); Regs., Conn. State Agencies § 46a-54-43a. If the respondent fails to file the answer, the executive director or designee is authorized to enter an order of default. General Statutes § 46a-83 (f); Regs., Conn. State Agencies § 46a-54-46a. Upon the entry

of the order of default, the presiding human rights referee shall “enter, after notice and hearing, an order eliminating the discriminatory practice complained of and making the complainant whole.” § 46a-83 (f).

General Statute § 46a-86 provides in relevant part that:

(a) If, upon all the evidence presented at the hearing conducted pursuant to section 46a-84, the presiding officer finds that a respondent has engaged in any discriminatory practice, the presiding officer shall make written findings of fact and file with the commission and serve on the complainant and respondent an order requiring the respondent to cease and desist from the discriminatory practice and to take such affirmative action as is necessary to achieve the purpose of this chapter.

* * *

(c) In addition to any other action taken under this section, upon a finding of a discriminatory practice prohibited by section 46a-58, 46a-59, 46a-64, 46a-64c, 46a-81b, 46a-81d or 46a-81e, the presiding officer shall determine the damage suffered by the complainant, which damage shall include, but not be limited to, the expense incurred by the complainant for obtaining alternate housing or space, storage of goods and effects, moving costs and other costs actually incurred by the complainant as a result of such discriminatory practice and shall allow reasonable attorney's fees and costs. The amount of attorney's fees allowed shall not be contingent upon the amount of damages requested by or awarded to the complainant.

V RELEVANT CASE LAW

§ 46a-86 (c)

Section 46a-86 (c) authorizes the presiding officer to award compensatory, or emotional distress, damages for violations of statutes including §§ 46a-58 and 46a-64. *Commission on Human Rights & Opportunities v. Board of Education*, 270 Conn. 665, 686 855 A.2d 212 (2004). “Damages that may be awarded under § 46a–86(c) include damages for emotional distress.” *Commission on Human Rights & Opportunities v.*

Sullivan Associates, Superior Court, judicial district of New Haven, Docket Nos. CV-94-4031061S, CV954031060S (April 28, 2011) (2011 WL 1992014, *2). "Punitive damages are not authorized. The CHRO's authority for awarding damages differs from the authority of courts." *Commission on Human Rights & Opportunities v Cantillon*, Superior Court, Judicial District of New Britain, Docket HHB-CV-17-6039406, FN 9 (October 2, 2019), (2019 WL 5549576, *5); *Chestnut Realty, Inc. v. Commission on Human Rights & Opportunities*, 201 Conn. 350, 366 (1986).

A complainant need not present expert medical testimony to establish his or her internal, emotional response to the harassment; his or her own testimony, or that of friends or family members, may suffice. *Busche v. Burke*, 649 F.2d 509, 519 n. 12 (7th Cir.1981); see also, *Marable v. Walker*, *supra*. However, medical testimony may strengthen a case. *Id.* As the Supreme Court stated in *Carey v. Phipus*, "[a]lthough essentially subjective, genuine injury in this respect [mental suffering or emotional anguish] may be evidenced by one's conduct and observed by others." *Carey v. Phipus*, 435 U.S. 247, 264 n. 20, 98 S.Ct. 1042 (1978).

In assessing damages for emotional distress the CHRO referees use a three-factor analysis which was enunciated in the case of *Commission on Human Rights and Opportunities ex rel. Harrison v. Greco*, CHRO No. 7930433 (1985), and which is sometimes referred to as the "*Harrison* factors." This analysis of emotional distress damages also has superior court support. *Commission on Human Rights and Opportunities ex rel Peoples v. Belinsky*, Superior Court, judicial district of Stamford–Norwalk at Norwalk, Docket No. 88061209 (November 8, 1988, Riefberg, J.). Under the *Harrison* analysis, the most important factor of such damages is the subjective internal emotional reaction of the complainants to the discriminatory experience which they have undergone and whether the reaction was intense, prolonged and understandable. *Harrison, supra*. Second, is whether the discrimination occurred in front of other people. *Id.* For this, the court must consider if the discriminatory act was in public and in view or earshot of other persons which would cause a more intense feeling of humiliation and embarrassment. *Id.* The third and final factor is the degree of the offensiveness of the discrimination and the impact on the complainant. *Id.* In other words, was the act egregious and was it done with the intention and effect of producing the maximum pain, embarrassment and humiliation.

Commission on Human Rights & Opportunities v Sullivan Associates, Superior Court, Judicial District of New Haven, Docket Nos. CV-94-4031061s, CV-95-4031060s (June 6, 2011) (2011 WL 3211150, *4)

VI ANALYSIS

A

Three factors are considered in determining the amount of compensatory emotional distress damages to be awarded pursuant to § 46a-86. The most important factor is the subjective internal reaction experienced by a complainant and whether that reaction was intense, prolonged and understandable.

During Ms. Green's tenancy and because of her disabilities, Mr. Alexander turned off her heat and hot water, removed her mail box, destroyed her personal property and left the pieces thrown in the front yard. He entered her apartment and threw away her belongings. He locked up her cabinet. He reduced the water pressure in her shower. He had her natural gas shut off. He nearly drove over her foot. (FF 14, 20 – 22, 26).

Mr. Alexander's actions forced Ms. Green to move into motels that were extremely dirty and dusty. They had cockroaches, bugs, and rude staff. (FF 31 – 36). As a further result of Mr. Alexander's actions, Ms. Green is now living in a dangerous neighborhood where she can hear gunshots and is afraid to outside, and where a mice infestation is ruining her belongings. She is out of breath walking up stairs and must stop mid-way to catch her breath. Her white blood cell count, red blood cell count and magnesium levels have all dropped to critically low levels. (FF 46 - 48).

Mr. Alexander's treatment of Ms. Green exacerbated her mental and physical disabilities and aggravated her asthma. (FF 14, 17, 36, 38, 42, 48). Having to get space heaters restricted her mobility in her own apartment. (FF 17). Having to shower and bathe in cold water made Ms. Green feel like an animal. (FF 41). She became depressed, her mind became cloudy, and she fell more often. (FF 42, 43). Her anxiety levels rose causing her to have hallucinations and to increase in the dosage of her prescription medication. (FF 44, 45).

By being forced out of her apartment because of her disabilities, Ms. Green lived in housing that made her asthma worse, and increased her anxiety and depression. (FF 48). She was unable to get a full night's sleep, lost weight and hair, and again had the dosage of her medication increased. (FF 33). She is afraid to go out of her current apartment alone or to go out at night. (FF 46).

Nearly two years after the filing of her affidavit with the commission, Ms. Green is still dealing with the consequences of Mr. Alexander's discriminatory actions.

The subjective internal reaction experienced by Ms. Green was severe, intense, prolong and understandable.

B

The second factor to consider is whether Mr. Alexander's discriminatory conduct occurred in public. Mr. Alexander served Ms. Green with a notice to quit and a summary process complaint resulting in a public appearance in housing court. (FF 12, 13). Mr. Alexander's summary process action against Ms. Green is public information. (FF 12). He destroyed Ms. Green's personal property and publicly scattered the remains in the

front yard. (FF 21). His actions caused Ms. Green to go to city hall to seek relief. (FF 29). He nearly ran over her foot. (FF 28). These are all public displays resulting from Mr. Alexander's discriminatory conduct.

C

The third factor to consider is whether Mr. Alexander committed the discriminatory acts with the intention of causing Ms. Green pain, embarrassment and humiliation. Mr. Alexander turned off the gas and hot water causing her to have to bathe in cold water. (FF 14, 16). He removed her mail box to prevent her from getting mail. (FF 20). He destroyed her personal property and threw the remains in the front yard. (FF 21, 22). He refused her requests to restore the gas and hot water and to provide her with grab bars. (FF 15, 16, 27, 28, 39, 40). These are all malicious acts clearly intended to cause Ms. Green pain, embarrassment, and humiliation because of her disabilities.

VII CONCLUSIONS OF LAW

1. As a result of the entry of a default order against Mr. Alexander for his failure to file an answer under oath, a hearing in damages was held to determine the relief necessary to eliminate the discriminatory practice and to make Ms. Green whole.
2. The commission and Ms. Green established by a preponderance of the evidence that Mr. Alexander violated §46a-64c (a) when he discriminated against her in the terms, conditions and privileges of her rental and further denied her a reasonable accommodation because of her disabilities.
3. The commission and Ms. Green established by a preponderance of the evidence that Mr. Alexander violated §46a-58 (a) when, in violation of Title VIII and the ADA,

he discriminated against her in the terms, conditions and privileges of her rental and further denied her a reasonable accommodation because of her disabilities.

4. Through exhibits and testimony, the commission and Ms. Green presented sufficient evidence for an award of compensatory emotional distress damages.

VIII
ORDER

1. The respondent Dave Alexander is ordered to pay the complainant Sonya A. Green \$125,000 in compensatory emotional distress damages. Payment shall be made on or before June 30, 2022.
2. Post-judgment interest shall accrue at the compounded rate of 10% per annum on any balance outstanding on and after July 1, 2022.
3. Mr. Alexander shall cease and desist from discriminating against tenants or prospective tenants because of their actual and/or perceived physical and/or mental disability.
4. Mr. Alexander shall not engage in any retaliatory conduct against Ms. Green.

/s/ Jon P. FitzGerald
Hon. Jon P. FitzGerald
Presiding Human Rights Referee