

Melissa Paone : Office of Public Hearings
v. :
Mr. Rooter Plumbing : OPH/WBR 2009-101
: March 30, 2009

Final decision

Preliminary statement

On March 30, 2009, Melissa Paone (the complainant) filed a complaint with the chief human rights referee alleging that Mr. Rooter Plumbing (the respondent) violated General Statutes § 4-61dd when it terminated her employment.

For the reasons set forth herein, the complaint is dismissed without a hearing.

Analysis

Section 4-61dd provides that any person having knowledge of corruption, unethical practices, violation of laws, mismanagement, gross waste of funds, abuse of authority or danger to the public safety occurring in any state agency, quasi-public agency or large state contract may disclose that information (1) to an employee of the state auditors of public accounts or the attorney general; (2) to an employee of the state or quasi-public agency that employs the person who retaliated or threatened retaliation;

(3) to an employee of a state agency pursuant to a mandated reporter statute; or, (4) in the case of a large state contractor, to an employee of the contracting state agency concerning information about a large state contract.¹ Disclosing such information is often referred to as “whistleblowing” and the person disclosing such information is often referred to as a “whistleblower.”

The statute further provides that no state employee, no quasi-public agency employee, no employee of a large state contractor and no appointing authority may retaliate by taking or threatening to take personnel action against a whistleblower who is an employee of the state, a quasi-public agency or a large state contractor. An employee who believes she is being retaliated against for whistleblowing may file a “whistleblower retaliation complaint” with the chief human rights referee no later than thirty days after the employee learns of the retaliatory act or threat.

Thus, for the human rights referees to have jurisdiction over a complaint, the whistleblowing must have been made to the auditors, the attorney general, the state or quasi-public agency that employs the person who retaliated or threatened retaliation, a state agency pursuant to a mandated reporter statute or, in the case of a large state contractor, to the contracting state agency. In addition, the complaint must be filed

¹ The nine quasi-public agencies are listed in General Statutes § 1-120 and a large state contractor is defined in § 4-61dd (h) as an entity with a contract with a state agency or quasi-public agency having a value of five million dollars or more.

against a state agency, a quasi-public agency, a large state contractor or an employee thereof. Also, the person filing the complaint is, or was, an employee of a state agency, a quasi-public agency or a large state contractor.

In this case, the human rights referees lack jurisdiction over this complaint for at least three reasons. First, according to paragraph 8 A of the complaint, the whistleblowing was not made to the auditors, the attorney general, the state or quasi-public agency that employs the person who retaliated or threatened retaliation; a state agency pursuant to a mandated reporter statute; or, in the case of a large state contractor, to an employee of the contracting state agency. The whistleblowing was, instead, made to the state department of labor. Second, according to paragraph 6 of the complaint, the respondent is not a state agency, a quasi-public agency, a large state contractor or employees thereof; and, third, from the complaint, it also appears that the complainant herself was not an employee of the state, a quasi-public agency or a large state contractor at the time of her whistleblowing.

Section 4-61dd-15 (c) of the Regulations of Connecticut State Agencies authorizes the presiding human rights referee to dismiss a complaint if the complainant fails to establish that the referees have jurisdiction. Because the complaint itself clearly

establishes that the referees do not have jurisdiction, the complaint is dismissed.

Hon. Jon P. FitzGerald
Presiding Human Rights Referee

C:
Ms. Melissa Paone
Lawrence S. Dressler, Esq.
Mr. Rooter Plumbing