

Stewart E. Peterson, Sr. : Office of Public Hearings  
v. : WBR/OPH No. 2010-135  
City of Danbury acting through the : July 23, 2010  
Danbury Housing Authority, et al.

Ruling: the respondents' motion to dismiss

I

On April 20, 2010, Stewart E. Peterson, Sr. filed a whistleblower retaliation complaint (complaint) with the chief human rights referee pursuant to General Statutes § 4-61dd (b) (3). In his complaint, he alleges that the City of Danbury acting through the Danbury Housing Authority and other [unidentified] departments, and Doreen Doran, Greg Holt, Jessie Marengo, M. Caroly Sistrunk and [unidentified] others (collectively, the respondents) violated General Statutes § 4-61dd. In his complaint, Mr. Peterson alleges, inter alia, that the respondents are a state agency or employees of a state agency, that he began his employment on May 5, 1988 and that the respondents terminated his employment on January 20, 2010. On May 21, 2010, the respondents filed their answer and affirmative defenses.

On June 9, 2010, the respondents filed a motion to dismiss arguing, in part, that the complaint was untimely filed. According to the respondents, the complaint was filed more than thirty days after the Housing Authority for the City of Danbury (HACD) had terminated Mr. Peterson's employment. On June 22, 2010, Mr. Peterson filed his opposition to the motion to dismiss. He asserts that he timely filed his complaint, as it

was on April 6, 2010 that HACD informed him that the termination had been upheld, and his complaint was filed within thirty days thereafter.

## II

Section 4-61dd (b) (3) (A) provides in relevant part: “Not later than thirty days after learning of the specific incident giving rise to a claim that a personnel action has been threatened or has occurred in violation of subdivision (1) of this subsection, a state or quasi-public agency employee, an employee of a large state contractor or the employee's attorney may file a complaint concerning such personnel action with the Chief Human Rights Referee designated under section 46a-57. . . .”

In this case, the specific personnel action that Mr. Peterson alleges was retaliatory was the termination of his employment. He learned of his termination on January 20, 2010, and his last date of employment occurred on January 20, 2010. Therefore, the applicable date for the commencement of the statute of limitations is January 20, 2010. Thirty days thereafter is February 19, 2010. As the complaint was not filed until April 20, 2010, it was not timely filed.

The thirty-day filing requirement must be complied with absent such factors as consent, waiver, equitable tolling or equitable estoppel. Equitable tolling is found only in rare instances where exceptional circumstances prevented a complainant from filing on time. Equitable estoppel generally applies when the complainant knew of his cause of action but a respondent took an affirmative act or made an affirmative statement that misrepresented the filing period or in some other way lulled the complainant into

believing that litigation was unnecessary at this time. Negotiations do not toll the statute of limitations. *Beecher v. Department of Transportation*, OPH/WBR 2008-078, Ruling on Motion to Dismiss, pp. 5-8 (January 7, 2009) (2009 WL 281167). In this case, there is no evidence or claim that the respondents consented to the delay in the filing of the complaint or that they waived the timely filing of the complaint. Further, Mr. Peterson's decision to request a formal hearing with HACD's board of commissioners is not an exception circumstance or an affirmative misrepresentation by a respondent that would trigger the application of equitable tolling or equitable estoppel to justify the delay in the commencement of the filing period.

### III

Order: The complaint is dismissed because it was untimely filed.

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Hon. Jon P. FitzGerald  
Presiding Human Rights Referee

C:  
Mr. Stewart E. Peterson, Sr.  
Mr. Brian Duncan  
Kim E. Nolan, Esq.