

RIGHTS STUFF

A Publication of The City Of Bloomington Human Rights Commission



CITY OF BLOOMINGTON

BHRC & MCHRC March in 4th of July Parade



Members of the Monroe County Human Rights Commission and the Bloomington Human Right Commission march in the City's annual Fourth of July Parade.

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Accepting Section 8 Vouchers As a Reasonable Accommodation

LA is a 72-year-old man with several disabilities. He has difficulty walking and picking up large items. His only income is from Social Security and Veterans' Affairs; it totals \$814 a month.

LA began receiving Section 8 rental housing assistance in 2005. In 2017, he began renting an apartment at Valley Crest Apartments in Alabama. His rent is \$655; he pays only \$119. The local housing authority pays the rest.

In 2021, Elmington Property Management purchased Valley Crest. The new owners told all residents that it would no longer accept Section 8 housing choice vouchers. If Elmington wouldn't accept Section 8 vouchers, LA would no longer be able to afford his apartment. He said that moving to a new apartment would "pose significant challenges that would likely require abandoning much of his personal property." And because of his poor health, which puts him at increased risk of COVID, he said looking for a new apartment would pose a risk to him.

He wrote the property manager, documenting his disability status and explaining the difficulties he would have in moving. He asked for an accommodation in the form of a waiver to the landlord's policy not to accept Section 8 vouchers. The company denied his request, without saying what portion of his request was unreasonable, and LA sued. He alleged that Elmington had violated the Fair Housing Act, which requires landlords to provide reasonable accommodations to tenants with disabilities.

The court said that LA alleged that denying him this accommodation would prevent him from using and enjoying his apartment, and that the accommodation would not deprive Elmington of any rental payments. It would just alter the source of the payments.

Elmington argued that "forced participation in Section 8 is not a reasonable accommodation." The court said that Elmington needed to show specific

circumstances that demonstrate undue hardship. It needed to show that the requested accommodation would "require a fundamental alteration in the nature of a program or impose undue financial and administrative burdens." The court, quoting another case, said that "the difference between an accommodation that is required and a transformation that is not is the difference between saddling a camel and removing its hump."

Elmington said that having to accept Section 8 would require it to fundamentally alter its rental practices and would require it to "comply with detailed audit, reporting and maintenance obligations." But it gave no specifics. The court said that Elmington had not provided enough information for it to determine if the requested accommodation was more akin to "saddling a camel or removing its hump."

The court denied Elmington's motion to dismiss. The case will now go to trial unless it's settled by the parties.

The case is Arnold v. Elmington Property Management, LLC, 2022 WL 2812260 (N.D. Alabama 2022). If you have questions about fair housing, please contact the BHRC.

Apply to Serve on the Bloomington Human Rights Commission

Are you a Bloomington resident who is passionate about human rights issues?

The BHRC currently has one vacancy.

Those interested should apply at <https://bloomington.in.gov/onboard/applicants/apply>.

Man Gets Discrimination Complaint Reinstated

TG is a devout Christian who sued his former employer, Sargento Foods, Inc., a company based in Wisconsin. He alleged discrimination on the basis of religion, sex and age as well as retaliation for having complained about discrimination. The trial court dismissed his complaint but the court of appeals reinstated it.

TG alleged that a coworker harassed him because she knew he was a monogamous Christian. He said she flirted with him, whistled at him and gestured to him in a sexualized manner. He complained about her and the company transferred her.

But then other coworkers harassed him by mocking him for rejecting the woman's advances, blaming him for her transfer and making sexual gestures at him. He said they once pelted him with the company's products while he was working at a machine, and threatened to beat him up or "put him six feet under." He complained again, but Sargento took no disciplinary action. He tried to file a grievance with human resources, but HR wouldn't allow him.

He said that Sargento asked him to take a mandatory "fitness for duty" exam with a forensic psychologist without explaining why. He took the exam and was fired shortly thereafter. He sued, representing himself.

The trial court said that his allegations were insufficient to allow it to determine whether he had stated a claim. It told him to



amend his complaint to provide more details about "what happened, who was involved, and what each person did" as well as "who discriminated against him, what discriminating acts occurred, and whether the discrimination was based on race, religion, or some other class protected by the law."

TG then submitted dozens of pages, providing names of coworkers and alleging that he had been forced to submit to the psychological exam in retaliation for complaining. The trial court said his amended complaint was unwieldy and unfocused and gave him one last opportunity to amend it, asking him to include "what, exactly, they did to him . . . and where they did it." He did that, and then the trial court said that the conduct he described was not "severe or pervasive but at worst merely vulgar and inappropriate." It dismissed his complaint.

The court of appeals disagreed with the trial court. The court said that a fair reading of TG's claim shows that he alleged harassment so "severe or pervasive" that it created an abusive working environment. It said he adequately stated a claim of retaliation when he said that he had complained about discrimination and then had been subjected to a required fitness for duty exam. And he adequately alleged that this treatment was based on his age and/or sex.

The court of appeals remanded the case to the trial court, noting that it was not expressing an opinion about how the trial court should evaluate his case at any later stage.

The case is Gove v. Sargento Foods, Inc., 860 Fed.Appx. 446 (7th Cir Ct. App. 2021). If you have questions about fair employment practices, please contact the BHRC.

Woman Loses Sex Discrimination Case

LN worked for Riley Hospital's anesthesia division as a certified nurse anesthetist for about two years. Between 2017 and 2019, several coworkers complained about her, describing her as "rude, snappy and belittling." Four decision-makers, three of whom are female, issued her a coaching memorandum. It identified her problematic behaviors and explained the hospital's expectations moving forward. It said she needed to change her behavior if she wanted to keep her job.

A month later, coworkers alleged that LN had been manipulating the hospital's timekeeping system. The chief anesthetist, Dr. Senthil Sadhasivam, said that his department "had reached a point where the entire anesthetist team cannot trust Lisa [because] . . . [s]he is not exhibiting 'team player' characteristics to her colleagues." Dr. Sadhasivam and three female administrators agreed to terminate LN's employment. She sued, alleging discrimination on the basis of sex and retaliation because she had signed an affidavit in another employee's discrimination complaint.

The district court found that LN did not present enough information at trial that "would permit a reasonable factfinder to conclude that plaintiff's . . . sex . . . caused the discharge or other adverse employment action." She appealed, and lost again.



LN said that two male coworkers engaged in misconduct similar to what she engaged in but neither were terminated. The court said that both men had engaged in misconduct, but neither of them received several grievances for their lack of professionalism or inability to work well with others. They were not "valid comparators."

She also said that Dr. Sadhasivam mistreated women. But the director of human resources interviewed all of the employees in the department and concluded that "all employees – 'young, old, men, women' – felt Dr. Sadhasivam treated them unfavorably." She did not present evidence that his treatment of employees was based on sex.

The case is [Nigro v. Indiana University Health Care](#)

Associates, 2022 WL 2600168 (7th Cir. 2022). If you have questions about fair employment practices, please contact the BHRC.

The next BHRC meeting will take place at 5:30 p.m. August 22, 2022, in McCloskey Room 135, in Showers City Hall.

Visit our website or Facebook page for the most up-to-date meeting information.