

JUDGE RICHWALD

11 CIV 6342

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United States District Court
Southern District of New York

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Rita Walsh, :

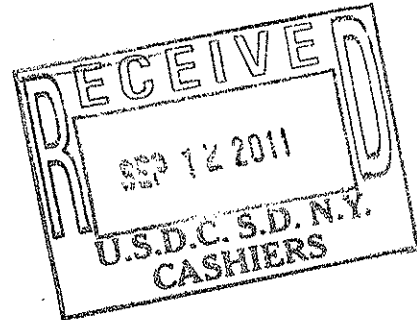
Plaintiff, :

-against- :

New York City Housing Authority, :

Defendant. :

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Complaint
Jury Trial Demanded

INTRODUCTION

1. This is an action for the discriminatory refusal of the New York City Housing Authority (NYCHA) to hire the plaintiff, Rita Walsh, for the position of bricklayer because of her sex (female), in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000-e et seq., the New York State Human Rights Law, 15 Exec. Law § 296 et seq., and the New York City Human Rights Law, Admin. Code, § 8-107 et seq.

JURISDICTION

2. This Court has jurisdiction over plaintiff's Title VII claims pursuant to 42 U.S.C. § §2000e-5(f)(3) and 28 U.S.C. § 1343. The Court has supplemental jurisdiction over plaintiff's New York State Human Rights Law and New York City Human Rights Law claims pursuant to 28 U.S.C. § 1367(a).

3. Plaintiff filed a timely charge with the Equal Employment Opportunity Commission on November 18, 2010, and received a notice of Right to Sue on June 27, 2011.

PARTIES

4. Plaintiff Rita Walsh is female. She resides in the City and State of New York.

5. Defendant New York City Housing Authority (NYCHA) is an organization whose mission is to provide decent and affordable housing for low and moderate-income residents in the five boroughs through New York City's Public Housing and Section 8 programs.

6. According to its web site, NYCHA's Conventional Public Housing Program has 178,882 apartments in 334 developments (as of March 1, 2011) throughout the City in 2,602 residential buildings. Employees of NYCHA perform maintenance and repair of these buildings.

FACTS

7. On October 15, 2005, the New York City Department of Citywide and Administrative Services (DCAS) held an examination for the civil service position of bricklayer. Over 200 people took the test. Rita Walsh was the only female. She passed, and as a result, her name was placed on an eligible list for future openings.

8. At the time she took that test, Ms. Walsh had been a tile setter for more than ten years and was a member of the International Union of Bricklayers and Allied Craft workers.

9. As a tile setter, Ms. Walsh had extensive experience laying out and setting tile and marble, which involves the same basic procedures as laying-out and setting brick. In particular, marble, like brick, is stacked one on top of the other and must be plumb and square. Ms. Walsh also had experience working with glass block, which has the same dimensions as brick and is generally considered bricklayer's work.

10. On information and belief, NYCHA does not have a civil service position specifically for tile setters. On information and belief, there is a significant amount of tile-setting work in the NYCHA buildings, which is performed by individuals in the position of bricklayer.

11. On information and belief, NYCHA does not now and never has employed a female in the position of bricklayer.

12. On February 24, 2010, employees of NYCHA interviewed six candidates from the eligible list for five available positions. Ms. Walsh was the only female.

13. After all the interviews, a representative of NYCHA spoke to the candidates individually. He told Ms. Walsh that she did not get the job. When Ms. Walsh asked why, he said they wanted someone strong. Ms. Walsh told him that she could lift cinder block, but NYCHA did nothing to evaluate her strength. On information and belief, NYCHA assumed that she was not strong enough for the position because she is female and denied her the job because of her sex.

14. Following the interviews, NYCHA hired four of the male candidates.

15. NYCHA asserted in its EEOC submission that Ms. Walsh was not qualified for the position because she had experience only as a tile setter, not as a bricklayer. However, one of the men hired had no experience as a bricklayer. His only relevant experience was three years as a mason's helper. The job description for that civil service position shows that a mason's helper does not lay brick or masonry. He or she merely assists the bricklayer or cement mason, the individual who actually sets and lays the brick or cement. The mason's helper, on the other hand, merely serves up materials (such as mortar, stone or tile) and lays out tools and equipment for the bricklayer. Ms. Walsh's experience setting tile and marble, which involves the same basic procedures as laying-out and setting brick, and her experience working with glass block, made her as qualified or more qualified for the job than that male.

16. NYCHA also treated Ms. Walsh differently than another one of the males who was hired. That individual had applied for a provisional appointment to the position of Bricklayer in 2000, and was hired for that position on the basis of a practical test. NYCHA regarded his bricklaying experience in that provisional position as qualifying him for the civil service position at issue in this case. Ms. Walsh was treated differently from that male applicant in that unlike him, she was not given the opportunity to demonstrate her qualifications by taking a practical test.

17. Based on the foregoing, defendant discriminated against Ms. Walsh by denying her the position as bricklayer on the basis of her sex.

WHEREFORE, plaintiff requests the following relief:

1. An injunction requiring NYCHA to hire Ms. Walsh in the position of bricklayer;
2. Back pay, including all fringe benefits;
3. Compensatory damages for emotional distress and suffering;
4. Attorneys' fees and costs;
5. Such other and further relief as the Court may deem just and proper.

Dated: September 12, 2011

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