

Teresa M. Trout was overlooked for at least four available Heavy Equipment Operator positions for which she was well qualified, in favor of less qualified males.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 706(f) (1) and (3) of Title VII, 42 U.S.C. §2000e-5(f)(1) and (3), and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Northern District of Ohio, Eastern Division.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission ("Commission"), is the Agency of the United States of America charged with the administration, interpretation and enforcement of Title VII and is expressly authorized to bring this action by Section 706(f) (1) and (3) of Title VII 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant M. DiGioia Company, LLC (the "Employer") has continuously been an Ohio corporation doing business in the State of Ohio and City of North Royalton and has continuously had at least 15 employees.

5. At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce within the meaning of Section 701 (b), (g) and (h) of Title VII, 42 U.S.C. § 2000e (b), (g) and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to institution of this lawsuit, Teresa M. Trout filed charges with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this suit have been fulfilled.

7. Since at least May 9, 2005, Defendant Employer engaged in unlawful employment practices in North Royalton, Ohio, in violation of Sections 703 of Title VII, 42 U.S.C. §2000e-2.

a) Beginning in May of 2005, Defendant Employer advertised for Heavy Equipment Operators and Laborers on the Internet and in local newspapers.

b) On May 9, 2005, Teresa M. Trout telefaxed her resume to Defendant in response to the job advertisements. Ms. Trout also visited the Defendant's Office and completed an employment application and left a second copy of her resume.

c) Teresa M. Trout, at all times pertinent to this Complaint, was a member in good standing of the International Union of Operating Engineers Local 18, and as such was a fully qualified Heavy Equipment Operator and Laborer.

d) Beginning on May 9, 2005 through at least September 21, 2005, Defendant hired four males to the positions which Teresa M. Trout sought.

e) Defendant never telephoned or made any other attempt to contact Teresa M. Trout concerning her interest in employment, with Defendant, despite her

numerous attempts to talk to Defendant's hiring officials concerning the aforementioned job opportunities which she sought.

8. The effect of the practice(s) complained of above has been to deprive Teresa M. Trout of equal employment opportunities and to otherwise adversely affect her status as a job applicant due to impermissible considerations of her sex, female.

9. The unlawful practices complained of above were intentional.

10. The unlawful employment practices complained of above were undertaken with malice and/or reckless indifference to the federally protected rights of Teresa M. Trout.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns and all persons in active concert or participation with it, from discriminating against individuals by the implementation of practices and policies which discriminate on the basis of sex, female.

B. Order Defendant Employer to institute and carry out policies, practices and programs which provide equal employment opportunities for persons regardless of sex and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer to make whole Teresa M. Trout, by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.

D. Order Defendant Employer to make whole Teresa M. Trout by providing affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to, backpay and front pay in amounts to be proven at trial.

E. Order Defendant Employer to make whole Teresa M. Trout, by providing compensation for past and future pecuniary losses, in amounts to be proven at trial.

F. Order Defendant Employer to make whole Teresa M. Trout by providing compensation for non-pecuniary losses in amounts to be proven at trial.

G. Grant an order assessing punitive damages against Defendant Employer for its malicious and reckless conduct described herein above in amounts to be determined at trial.

H. Grant such further relief as the Court deems necessary and proper in the public interest.

I. Award the Commission its costs in this action.

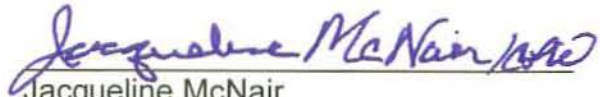
JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its Complaint.

Respectfully submitted,

JAMES L. LEE
DEPUTY GENERAL COUNSEL

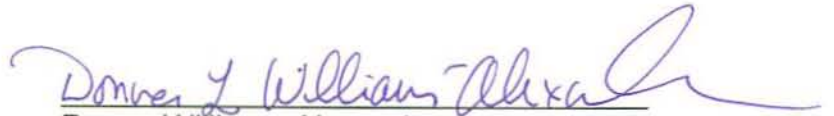
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