

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Court
Southern District of Texas
FILED

AUG 13 2001 [LF]

Michael N. Milby, Clerk

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

VS.

D & S RESIDENTIAL SERVICES, INC.
Defendant.

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H - 01 - 2724
CIVIL ACTION NO.

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT

NATURE OF THE ACTION

1. This is an action under Title VII of the Civil Rights Act of 1964, as amended and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex and to afford appropriate relief to Katrina Cannon Graham and Tammy Fowler and other women adversely affected by the below described unlawful practices. In this lawsuit, Plaintiff, Equal Employment Opportunity Commission ("Commission"), alleges that D & S Residential Services, Inc. ("Defendant") unlawfully discharged Ms. (Cannon) Graham and Ms. Fowler and other women because they were pregnant.

JURISDICTION AND VENUE

2. 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 Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, *et. seq.*, ("Title VII")

in Section 706(f)(1) and (3), 42 U.S.C. Section 2000e-5(f)(1) and (3) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. Section 1981a.

3. The employment practices alleged to be unlawful were committed in Houston, Texas which is within the jurisdiction of the United States District Court for the Southern District of Texas, Houston Division.

4. Venue is proper within the jurisdiction of the United States District Court for the Southern District of Texas, Houston Division.

PARTIES

5. Plaintiff, the Equal Employment Opportunity Commission (the "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) of Title VII, 42 U.S.C. Section 2000e-5(f)(1).

6. At all relevant times, Defendant, D & S Residential Services, Inc., has continuously been doing business in the State of Texas, the City of Houston and Harris County, Texas, and has continuously had at least fifteen (15) employees. Defendant D & S Residential Services may be served with process by serving its registered agent in Texas, George Harold Davis, Jr., 2814 Bee Caves Road, Austin, Texas 78746.

7. At all relevant times, Defendant has continuously been and is now 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. Section 2000e(b), (g) and (h).

STATEMENT OF CLAIMS

8. More than thirty days prior to the institution of this lawsuit, both Katrina Cannon Graham and Tammy Fowler filed a charge of discrimination with the Commission against the Defendant alleging violations of Title VII. All conditions precedent to the institution of this lawsuit have been fulfilled including the timely filing of a charge, and an attempt to conciliate the matter.

9. Since at least 1999, Defendant has engaged in unlawful employment practices in violation of Sections 703(a)(1) and 701(k) of Title VII, 42 U.S.C. Sections 2000e-2(a)(1) and 20000e(k). The practices include subjecting its female employees to unlawful sex discrimination on the basis of pregnancy.

10. In or about June 1999, Defendant informed Ms. (Cannon) Graham that she could no longer work for Defendant because she was pregnant. Although Ms. (Cannon) Graham informed Defendant that she was physically able to continue working and wanted to continue working, Defendant discharged her over her objections.

11. Defendant terminated Ms. (Cannon) Graham because she was pregnant.

12. In or about October 1999, Ms. Fowler informed Defendant that she was pregnant. Defendant requested and received an authorization from her physician allowing her to continue her employment during her pregnancy. Defendant began to contact Charging Party's physician in an attempt to force him to withdraw his work authorization. Thereafter, Defendant attempted to make Ms. Fowler take an unpaid leave of absence during the pendency of her pregnancy. When she refused to do so,

Defendant then changed the terms and conditions of her employment in an attempt to force her to take a leave of absence. Ultimately, after learning of a threat to Ms. Fowler by one of its clients, Defendant ordered her to go home. She was never granted permission to return to work.

13. Defendant discharged Ms. Fowler because of her pregnancy.

14. The Commission believes that other female employees of Defendant were subjected to temporary and permanent discharges because of their pregnancies.

15. The effect of these unlawful practices has been to deprive Ms. (Cannon) Graham, Ms. Fowler and other female employees of Defendant of equal employment opportunities, and to otherwise adversely affect their status as employees because of their pregnancy.

16. The unlawful employment practices complained of above were intentional.

17. Defendant, at all relevant times, committed the unlawful employment practices with malice, or in reckless disregard of the federally protected rights of Ms. (Cannon) Graham, Ms. Fowler and its other female employees.

PRAYER FOR RELIEF

18. Wherefore, the Commission respectfully requests that this Court:

- A. Grant a permanent injunction enjoining Defendant, D & S Residential Services, Inc., its officers, successors, assigns and all persons in active concert or participation with it, from engaging in discrimination against pregnant females, and from engaging in any other employment practice which discriminates against individuals on the basis of sex.
- B. Order Defendant, D & S Residential Services to institute and carry out policies, practices and programs which provide equal employment

opportunities for female employees, and which eradicate the effects of its past and present unlawful employment practices.

- C. Grant a judgment requiring Defendant, D & S Residential Services, to make whole Katrina Cannon Graham, Tammy Fowler and any other female employees of Defendant adversely affected by Defendant's unlawful actions by providing appropriate back wages and pre-judgment interest, in an amount to be determined at trial, as well as any other affirmative relief necessary to eradicate the effects of Defendant's unlawful employment practices, including, but not limited to, reinstatement of Ms. (Cannon) Graham and Ms. Fowler or order an award of front pay in an amount to be proved at trial if reinstatement is impractical.
- D. Order Defendant to make whole Katrina Cannon Graham, Tammy Fowler and any other women adversely affected by Defendant's unlawful actions, by providing compensation for past and future pecuniary losses, including medical expenses and job search expenses, in an amount to be determined at trial.
- E. Order Defendant to make whole Katrina Cannon Graham, Tammy Fowler and any other women adversely affected by Defendant's unlawful actions, by providing compensation for non-pecuniary losses, including emotional pain and suffering, in amounts to be determined at trial.
- F. Order Defendant to pay Katrina (Cannon) Graham, Tammy Fowler and any other women adversely affected by Defendant's unlawful actions, punitive damages for its malicious and/or reckless conduct, in an amount to be determined at trial.
- G. Grant such further relief as the Court deems necessary and proper.
- H. Award the Commission its costs of this action.

JURY DEMAND


- 19. The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully submitted,

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

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