

DATE June 28, 2022
DETERMINATION Reasonable Cause
CASE NAME: Aquatania Colbert v. Pueblo Village Apartments, LLC and Phillip Tracy
CASE NUMBER: HUD NO.: 04-22-9238-8 PCOHR NO.: PC-22-014

I. JURISDICTION:

The Complainant alleges that the Respondent made housing unavailable to her and her minor children and subjected them to harassment in violation of Sections 804(a) and 818 of the Fair Housing Act and Chapter 70 of the Pinellas County Code of County Ordinances (Chapter 70) based on race and color. The Respondents are Pueblo Village Apartments, LLC, and property manager Phillip Tracy.

The most recent act of discrimination is alleged to have occurred on November 7, 2021, and ongoing. The complaint was filed timely on November 29, 2021. The subject property concerns Complainant's dwelling at 3600 49th Avenue North, Apt. 8-B, St. Petersburg, FL 33714, an apartment complex in Pinellas County.

II. COMPLAINANT'S ALLEGATIONS:

According to the complaint, the Complainant alleges that she and her minor children have been harassed because of their race (African American) and the color of her skin (Black). The Complainant alleges that Michelle Kott, a white tenant, called her children the n-word. Complainant asserts that she and other individuals have reported the racial slurs to management on her and her children's' behalf, but no action was taken by the manager, Phillip Tracy.

Complainant further alleges that the Respondent did not take similar action against a tenant of a different protected class based on race and color. Specifically, Complainant alleges that she received a non-renewal notice dated October 1, 2021, however Michelle Kott did not receive a non-renewal notice for her behavior.

III. RESPONDENTS' DEFENSES:

Respondent asserts that they did not discriminate against the Complainant in any way. Respondent asserts that Complainant's tenancy was terminated because she and a neighbor were feuding. The Respondent affirms that the neighbor's lease was also terminated, and she vacated her apartment. (E-2)

IV. FINDINGS:

Respondent issued violation notices to both the Complainant and Ms. Kott on September 30, 2021, citing Section 21 of the lease. Complainant received a non-renewal notice on October 1, 2021. Ms.

Kott received a non-renewal notice on December 1, 2021. Both non-renewal notices were issued approximately three months prior to the expiration date of their respective leases. Complainant was issued a non-renewal notice on October 1, 2021, and her lease was due to expire on December 31, 2021. Ms. Kott was issued a non-renewal notice on December 1, 2021, and her lease was due to expire on February 28, 2022. (E-4)

Police incident reports pertinent to Complainant and Ms. Kott were received from the Pinellas County Sheriff's Office. These reports show that both Ms. Kott and Complainant called the police on one another, but no one was taken into custody. In October of 2020, Ms. Kott contacted the police, accusing Complainant of threatening to fight her. Complainant claimed that Ms. Kott was looking into her daughter's bedroom window while walking her dog. On November 1, 2021, Complainant contacted police and asserted that Ms. Kott had falsely accused her of threatening her with a pistol. (G-2)

Complainant provided witness contacts in support of her allegations. She also collected and submitted typed statements from some of these witnesses. These witness contacts are summarized as follows:

Shamaria Colbert (black) is an adult-aged daughter of Complainant. She states that Ms. Kott would say "you n***** bitch" or "you black bitch" when talking to members of the household. Ms. Shamaria Colbert states that in October 2021, she was babysitting her little sister, who was outside playing with friends. Her little sister ran inside the house crying, saying that Michelle Kott drove past in her car, yelling, "you little bitch". Ms. Shamaria Colbert states that she went to the property manager, Phillip Tracy, to report this. She states that Mr. Tracy said he didn't want to hear anything about it and told her to get out of his office. (F-2)

Daniel Hird (white) is a subcontractor who occasionally performs work in the complex as a handyman. He states that he was fixing Complainant's vanity one day and Michelle Kott was using the n-word in the presence of Complainant and her children. According to Mr. Hird, Michelle Kott said, "You and your f***ing n***** kids get the f*** out of here." Mr. Hird states that this took place in October or November of 2021. He states that he went to the office to report to Phillip (Tracy), who told him, "Get the f*** out." Mr. Tracy followed by saying "I don't care. She and her kids can get the f*** out" and "She can get someone else to fix things." Mr. Hird said that he took his tools and left because he felt uncomfortable with Michelle Kott's slurs. (F-3)

Debbie Johnson (black) lives in the apartment complex. Ms. Johnson states that she heard Michelle Kott calling Complainant's minor daughter a 'n*****'. She said that it happened at the laundromat and that it's been about a month or so ago. Ms. Johnson was asked if she had heard Ms. Kott use the n-word on other occasions, and she replied, "I've heard her use it quite a few times." (F-7)

Antonio Webb (black) states that he is the father of Complainant's children. He lived there previously, and he and the Complainant are no longer together. Mr. Webb said that he heard Ms. Kott use the n-word about three or four times. Mr. Webb did not report any specific incidents to Mr. Tracy, but he said that the Complainant went to the office to report the slurs and she came back crying. According to Mr. Webb, Complainant was crying and said that Phillip Tracy told her that he didn't want to hear what the hell she had to say. (F-8)

Carlene Petrie (black) submitted a typed statement to this office. She is the grandmother of the minor children in Complainant's household. Ms. Petrie writes that she heard Michelle Kott call one of the minor daughters a "black n***** bitch" and told her to "shut the f*** up." Ms. Petrie said that the child was crying, so she yelled at Ms. Kott, told her to leave, and chased Ms. Kott back to her apartment. (F-9)

Michelle Kott was contacted by email, but she did not respond to a request for information. (F-4)

V. ANALYSIS:

To establish a violation under Section 818, the evidence must demonstrate that (1) Complainant is a member of a protected class; (2) Respondent subjected the Complainant to unwelcome harassment; (3) the harassment complained of was because of Complainant's protected class; and (4) The harassment was sufficiently severe or pervasive to interfere with the Complainant's use or enjoyment of her home.

The Complainant states in her intake questionnaire that she is American-Indian and African-American, but that she looks only black (D-1). The first element has been satisfied.

For the second element to be met, the evidence must demonstrate that the Respondent either, (a) subjected the Complainant to harassment based on a protected class; or (b) knew or should have known about the harassment but failed to take appropriate action. In the case at hand, witness interviews and statements support the allegations that Complainant's minor children were subject to racial slurs and intimidating, threatening behavior on Respondent's property. The evidence also shows that multiple individuals reported Ms. Kott's behavior to the property manager, Phillip Tracy. There is insufficient evidence that Mr. Tracy investigated these complaints. Based on witness interviews, Mr. Tracy informed those individuals to leave his office and that he was uninterested in addressing these complaints.

We determine that the second element has been met by failing to address the complaints about the racial slurs, Respondent subjected Complainant and her minor children to racial harassment.

Because the n-word was directed toward Complainant's children, the third element has also been met. The harassment was *because of* race and color.

As to the fourth element, the use of the n-word is severe and intimidating. When used by an adult towards children, the severity is increased. Multiple witnesses corroborated the allegations. We conclude that the fourth and final element has also been satisfied. Complainant and her children were subjected to harassment, intimidation, and a hostile environment based on race and color.

Because all of the prima facie elements have been met, and there is insufficient evidence that Respondent took action to address complaints about a racially hostile environment, we find that

Complainant was subjected to harassment and intimidation pursuant to Section 818 of the Fair Housing Act and Chapter 70 of the Pinellas County Code.

It is noted that the attested racial slurs occurred after Complainant was issued her non-renewal notice. Even though Complainant's lease was due to expire, and she was expected to move out, she and her children were still Respondent's tenants creating a racially hostile environment.

To establish a violation under Section 804(a), the prima facie elements for a case involving discriminatory follows: (1) Complainant is a member of a protected class; (2) Complainant was Respondent's tenant; (3) Respondent acted to terminate Complainant's tenancy by initiating an eviction, sending a notice to terminate, or refusing to renew Complainant's lease; and (4) Respondent did not take similar action against a tenant of a different protected class.

Complainant racially identifies as African-American and American-Indian, but that she looks only black. The first elements (race and color) have been fulfilled. She was Respondent's tenant, so the second element has been met as well.

As to the third element, Respondent issued a Notice of Non-Renewal dated October 1, 2021. The third element has been satisfied.

Turning to the fourth element, Respondent also issued a Notice of Non-Renewal to Michelle Kott (Caucasian) and to another tenant named Ms. Stearns (Caucasian) in December of 2021. The evidence shows that tenants outside of Complainant's protected class were treated similarly. Therefore, the fourth prima facie element is not met.

VI. CONCLUSION:

Based on the foregoing analysis, the Office of Human Rights (OHR) concludes that there is Reasonable Cause to believe that Respondent violated Sections 818 of the Act and Chapter 70 of the Pinellas County Code by subjecting Complainant to a racially hostile and intimidating environment.

OHR found that there is No Reasonable Cause to believe that Respondent violated Section 804(a) of the Act and Chapter 70 of the Pinellas County Code as it related to terms and conditions of a tenancy.

VII. ADDITIONAL INFORMATION:

Notwithstanding this determination by the Pinellas County Office of Human Rights, the Fair Housing Act provides that the complainant may file a civil action in an appropriate federal district court or state court within two years after the occurrence or termination of the alleged discriminatory housing practice. The computation of this two-year period does not include the time during which this administrative proceeding was pending. In addition, upon the application of either party to such civil action, the court may appoint an attorney, or may authorize the commencement of or continuation of the civil action without the payment of fees, costs, or security, if the court determines that such party is financially unable to bear the costs of the lawsuit.

The Department's regulations implementing the Act require that a dismissal, if any, be publicly disclosed, unless the respondent requests that no such release be made. Such request must be made by the respondent within thirty (30) days of receipt of the determination to the Field Office of Fair Housing and Equal Opportunity at the address contained in the enclosed summary. Notwithstanding such request by the respondent, the fact of a dismissal, including the names of all parties, is public information and is available upon request.

A copy of the final investigative report can be obtained from the Pinellas County Office of Human Rights.

Betina Baron
Betina Baron, Compliance Manager

7/12/22
Date