

BEFORE THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

FREDERICK LITTLEJOHN, SR.,

Complainant,

v.

Docket No. HR-79-75

MARY SEABOLT

Respondent.

FINDINGS OF FACT
CONCLUSIONS OF LAW AND ORDER

THE PROCEEDINGS

Pursuant to the amended Notice of Hearing issued on December 2, 1977 to Mary Seabolt, Respondent, the above-styled matter came on for hearing on December 29, 1977 in the Conference Room of the West Virginia Human Rights Commission, 1036 Quarrier Street, Charleston, West Virginia beginning at 9:40 a.m. Russell Van Cleve, Hearing Commissioner, and David Grabill, Esq., Hearing Examiner, jointly comprised the panel. The Complainant, Frederick Littlejohn, Sr., appeared in person. Assistant Attorney General, Susan A. Settle represented the West Virginia Human Rights Commission and Edward W. Hiserman, Esq., represented the Respondent.

On September 26, 1974, the Complainant filed a complaint with the Commission alleging that the Respondent, Mary Seabolt, discriminated

against him on the basis of race by failing to rent Mr. Littlejohn a vacant mobile home lot at 5803 A, Raven Drive, Rand, West Virginia on August 30, 1974. The West Virginia Human Rights Commission issued a letter of determination on September 4, 1975 finding probable cause to believe that the Human Rights Act was violated in the August 30, 1974 incident. On November 17, 1977 Respondent, by counsel, filed their answer to the original hearing notice issued on November 4, 1977.

After full consideration of the entire testimony and evidence the Commission makes the following Findings of Fact and Conclusions of Law.

II FINDINGS OF FACT

1. Complainant is a black male resident of Kanawha County, West Virginia.
2. Respondent is an owner of real property in Kanawha County, West Virginia.
3. The record showed that Respondent, Mary Seabolt assumed responsibility for the selection of prospective tenants. Mr. Seabolt referred prospective tenants to his wife and performed maintenance and repairs on the properties he and his wife jointly owned.
4. At the time of the public hearing Mr. Seabolt was deceased.
5. On August 29th, 1974, Complainant Littlejohn and his wife saw an ad placed by Respondent Seabolt in the Charleston area newspapers listing a lot in Rand, West Virginia as available for rent.

6. On August 30, 1974, Complainant called the Respondent and inquired about the lot in issue. Complainant was informed by Respondent that the lot was available and an appointment was arranged for Complainant to examine the lot and meet with the Seabolt's.
7. Evidence of the record established that the disputed lot was vacant from July 30, 1974 through November 30, 1974.
8. Complainant admitted that at the time he met with Respondent, that he had children, and that he owned a travel trailer. Complainant alleged however, that he was denied rental of the mobile home lot based on his race.
9. Respondent testified that she sought a couple with a 60' X 12' mobile home to occupy the disputed vacant lot, and that she did not want to rent the disputed lot to persons with travel trailers.
10. Testimony from Respondent further established as corroborated by Respondent's witness that several white prospective tenants with travel trailers prior to and after Complainant's inquiry about the lot were rejected on the basis of not having a 60' X 12' mobile home to move on to the lot.
11. Complainant testified that he told Respondent that he would purchase a 60' X 12' mobile home to place on the disputed lot. Respondent's wife testified in rebuttal that Complainant merely stated that he might consider buying a mobile home.
12. The record does not reflect whether or not prior to or after Complainant sought the lot in issue Respondent rented a comparative lot to white persons who did not have a 60' X 12' mobile home.

13. The record does not reflect whether at the time of the encounter or subsequently Respondent rented lots at its mobile home park in general or comparative lots in particular, in the park to white persons with children.
14. Respondent testified that she did offer to rent the Complainant a furnished five room house at eighty (80) dollars per month in Rand. Complainant recalled Mrs. Seabolt mentioning a house by a firehouse. Mrs. Littlejohn did not remember any conversation between her and Mrs. Seabolt about a house for rent.
15. The record showed that the disputed lot was rented to a white male with a 60' X 12' trailer effective December 1, 1974.

III
CONCLUSIONS OF LAW

1. At all times referred to herein the Respondent, Mary Seabolt is an owner of real property within the meaning of 5-11-3, West Virginia Code.
2. At all times referred to herein the Complainant, Fredereck Littlejohn, Sr., was a resident of the State of West Virginia and is a person within the meaning of 5-11-3(a), West Virginia Code.
3. On or about July 6, 1977, the Complainant, Frederick Littlejohn, a black male, filed a verified complaint properly alleging that Respondent had engaged in an unlawful discriminatory practice within the meaning of §5-11-9(g) of the Code of West Virginia.
4. Said complaint was timely filed within 90 days of an alleged act of discrimination.

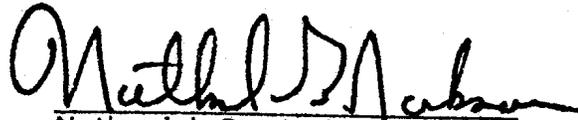
5. The West Virginia Human Rights Commission has jurisdiction over the parties and subject matter of this action pursuant to Sections 8, 9, and 10, Article 11, Chapter 5 of the Code of West Virginia.
6. The Complainant failed to make a prima facie showing of discrimination based on his race.
7. The Complainant failed to show by a preponderance of the evidence that Respondent declined to rent a vacant mobile home lot located at 5803-A, Raven Drive, Rand, West Virginia on August 30th, 1974 to him because of his race.
8. The Complainant has failed to show, by a preponderance of the evidence, that the Respondent violated the West Virginia Human Rights Act by refusing to rent the aforesaid vacant mobile home lot to him because of his race.

IV
RELIEF

Judgement ORDERED for the Respondent against the Complainant;
this case is ORDERED dismissed.

11/30/83
DATE

Enter:


Nathaniel G. Jackson
Vice-Chairperson