

STATE OF WEST VIRGINIA HUMAN RIGHTS COMMISSION

**215 PROFESSIONAL BUILDING
1036 QUARRIER STREET
CHARLESTON, WEST VIRGINIA 25301**

TELEPHONE: 304-348-2616

ARCH A. MOORE, JR.
Governor

January 14, 1986

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Assistant Attorney General
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Charleston, WV 25305

James S. Clair, Esquire
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Huntington, WV 25701

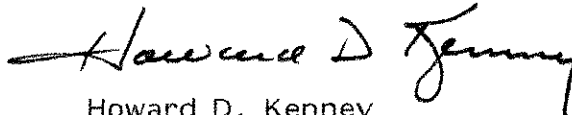
Re: Russell V. Thabit/HR 433-81A

Dear Mr. Morgan and Mr. St. Clair:

Herewith please find the Order of the WV Human Rights Commission in the above-styled and numbered case of Russell V Thabit/HR-433-81A.

Pursuant to Article 5, Section 4 of the WV Administrative Procedures Act [WV Code, Chapter 29A, Article 5, Section 4] any party adversely affected by this final Order may file a petition for judicial review in either the Circuit Court of Kanawha County, WV, or the Circuit Court of the County wherein the petitioner resides or does business, or with the judge of either in vacation, within thirty (30) days of receipt of this Order. If no appeal is filed by any party within (30) days, the Order is deemed final.

Sincerely yours,



Howard D. Kenney
Executive Director

HDK/kpv

Enclosure
CERTIFIED MAIL/REGISTERED RECEIPT REQUESTED.

RECEIVED

BEFORE THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

DEC 17 1985

W.V. HUMAN RIGHTS COMM.

SHELIA RUSSELL,

Complainant,

vs.

Docket No.: HR-433-81A

NELLIE THABIT,

Respondent.

ORDER

On the 11th day of December, 1985, the Commission reviewed the Findings of Fact and Conclusions of Law of Hearing Examiner Theodore H. Dues. After consideration of the aforementioned, the Commission does hereby adopt the Findings of Fact and Conclusions of Law as its own, with the following amendment.

The Commission amends the Findings of Fact and Conclusions of Law by deleting from same the sentence on page 1 "The parties waived the presence of a Hearing Commissioner." and substituting therefor the sentence "Also present was the Hearing Commissioner, Bette Thornhill."


It is hereby ORDERED that the Hearing Examiner's Findings of Fact and Conclusions of Law be attached hereto and made a part of this Order, except insofar as they are amended by this Order.

By this Order, a copy of which shall be sent by Certified Mail to the parties, the parties are hereby notified that THEY HAVE TEN DAYS TO REQUEST A RECONSIDERATION OF THIS ORDER AND THAT

THEY HAVE THE RIGHT TO JUDICIAL REVIEW.

Entered this 19th day of Dec., 1985.

Respectfully Submitted,



CHAIR/VICE-CHAIR
West Virginia Human
Rights Commission

THE WEST VIRGINIA SUPREME COURT OF APPEALS
FOR THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

OCT 29 1985

SHELIA RUSSELL,

Complainant,

vs.

Docket No. HR-433-81A

NELLIE THABIT,

Respondent.

RECEIVED

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W.V. HUMAN RIGHTS COMM.

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter matured for hearing on June 13, 1985. The hearing was held at the Cabell County Commission Courtroom, Cabell County Courthouse, Huntington, WV. The panel consisted of Theodore R. Dues, Jr., Hearing Examiner. The parties waived the presence of a Hearing Commissioner. The Complainant appeared in person and by her counsel, Gregory A. Morgan. The Respondent appeared in person and by her counsel, James W. St. Clair.

FINDINGS OF FACT

1. The Complainant, Shelia Russell, is a black female.
2. The Complainant during the relevant period of time to this action was an employee of the Huntington Human Relations Commission.
3. The Complainant's position at the Huntington Human Relations Commission was that of a clerical nature.
4. On or about March 11, 1981, the Complainant arranged by telephone to view an apartment which was advertised for rent at 800 8th Street, Huntington, WV.
5. The apartment in question was owned by the Respondent, Nellie Thabit.

6. The Complainant appeared at the apartment and met an individual later identified as the Respondent.

7. On that occasion the Respondent showed the Complainant a two-bedroom apartment.

8. The Complainant was informed by the Respondent that the monthly rent for the apartment in question was Two Hundred Fifty Dollars (\$250.00).

9. The Complainant was not shown any other apartment in the building at 800 8th Street.

10. The Respondent owned the entire building at 800 8th Street which contained the apartment that was shown to the Complainant.

11. The Complainant was at the time she viewed the apartment seeking the apartment for herself and not performing in the capacity as an investigator for the Huntington Human Relations Commission.

12. At that time the Complainant was residing with a friend. In January, 1981, the Complainant paid unto her friend, Brenda Ellis, the amount of Two Hundred Dollars (\$200.00) per month on a voluntary basis.

13. As a result of the Complainant being unable to acquire the apartment in question and based upon the Complainant's fear that matters related to her race were the motives, the Human Relation's Commission's Investigator/Administrator, Mr. Paul Connerty, caused a "testing" procedure to be conducted at that site consisting of two white males and a black male.

14. The testers followed the same procedure of making arrangements to view the apartment as did the Complainant.

15. On each occasion, the black individuals were quoted higher rental prices than the white individuals.

16. The Respondent expressed to one white male that she was unable to "rent to coloreds yet". The Respondent further stated to that white male that she quoted the Complainant a higher price to get rid of her.

17. In addition, both white testers were shown an additional apartment which was quoted a lesser amount than the amount quoted on the apartment shown to the black viewers.

18. As a result of Respondent's conduct Complainant suffered embarrassment and humiliation.

CONCLUSIONS OF LAW

1. The West Virginia Human Rights Commission has jurisdiction over the subject matter and the parties in this matter.

2. As in all cases, the Complainant bears the burden of proving the allegations of her complaint that the Respondent refused to provide her housing accommodation for the reason of her race.

3. The Complainant established a prima facie case by establishing that she is a member of a protected class, the Respondent had a unit for rent, that the unit was quoted at a higher price to her than to subsequent whites, and that after her inquiry the Respondent continued to seek renters for the apartment.

4. The Respondent failed to articulate a legitimate nondiscriminatory reason for its actions.

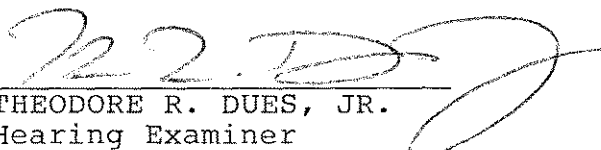
5. As a result of the Respondent's conduct the Complainant suffered damages for mental pain and anguish in the amount of Five Thousand Dollars (\$5,000.00).

RELIEF

Judgement for the Complainant in the amount of Five Thousand Dollars (\$5,000.00).

DATED Aug 16, 1985

ENTER:


THEODORE R. DUES, JR.
Hearing Examiner