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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

February 24, 1986

Beatrice (Brown) Little
3608 Stella Street
Parkersburg, WV 26101

Cynthia Brown
420 12th Street
Parkersburg, WV 26101

Neil Strong
Rt. 2, Box 354
Belpre, OH 45714

Louis S. Davitian
217 Fourth St.
Parkersburg, WV 26101

Viola Strong
Rt. 2, Box 354
Belpre, OH 45714

Mary Kay Buchmelter, Esq.
Assistant Attorney General
1204 Kanawha Blvd., E.
Charleston, WV 25301

RE: PAR 192-75; PAR 191-75; PAR 188-75; PAR 208-75

Dear Above Parties:

Herewith please find the Order of the WV Human Rights Commission in the above-styled and numbered case of PAR 192-75; PAR 191-75; PAR 188-75; PAR 208-75.

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,

Handwritten signature of Howard D. Kenney in cursive script.
Howard D. Kenney
Executive Director

HDK/kpv
Enclosure

CERTIFIED MAIL/REGISTERED RECEIPT REQUESTED.

BEFORE THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

Viola Strong,)
)
 Complainant,)
)
 v.) PAR 192-75
)
 Friar Tuck's,)
)
 Respondent.)
)
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JAN 16 1986

W.V. HUMAN RIGHTS COMM.

ORDER

On the 8th day of January, 1986, the Commission reviewed the Findings of Fact and Conclusions of Law of Hearing Examiner Cathryn A. Nogay. After consideration of the aforementioned, the Commission does hereby adopt the Findings of Fact and Conclusions

THEY HAVE THE RIGHT TO JUDICIAL REVIEW.

Entered this 4 day of Feb., 1986.

Respectfully Submitted



CHAIR/VICE-CHAIR
West Virginia Human
Rights Commission

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

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DEC 09 1985

ADMINISTRATIVE CLERK
WEST VIRGINIA SUPREME COURT OF APPEALS

Viola Strong,
Complainant,
v.
Friar Tuck's,
Respondent.

*Approved
A.R.S.
12/10/85*

PAR 192-75

Neal Strong,
Complainant,
v.
Friar Tuck's,
Respondent.

PAR 191-75

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DEC 13 1985

W.V. HUMAN RIGHTS COMM.

Beatrice Brown,
Complainant,
v.
Friar Tuck's,
Respondent.

PAR 188-75

Cynthia Brown,
Complainant,
v.
Friar Tuck's,
Respondent.

PAR 208-75

Recommended Decision

A. Preliminary Matters

Complainants Neal Strong and Viola Strong filed complaints with the West Virginia Human Rights Commission against the Respondent Friar Tuck's on March 25, 1975. Complainant Beatrice Brown filed a complaint with the West Virginia Human Rights Commission against Respondent Friar Tuck's on March 21, 1975. Complainant Cynthia Brown filed a complaint with the West Virginia Human Rights Commission against Respondent Friar Tuck's on March 31, 1975. The complaints allege that the complainants, all of whom are black, were denied admittance to Friar Tuck's, a private club, because of their race, and charge the Respondent with racial discrimination in public accommodations in violation of the West Virginia Human Rights Act. These four cases and four other similar ones were informally consolidated to expedite the matters.

Pre-hearing conferences were held in regards to the cases on June 25, 1985, and September 18, 1985. The public hearing was held on October 15, 1985, and completed on October 25, 1985. Complainants Viola Strong, Beatrice Brown, and Cynthia Brown appeared in person and by their counsel, Mary Kay Buchmelter on October 15 and 25, 1985. Complainant Neal Strong appeared only on October 25, 1985. The Respondent, Friar Tuck's, appeared in person by its president, Jeff Jones, and by its counsel, Louie S. Davitian, on October 15 and 25, 1985. The hearing was presided over by Cathryn A. Nogay, Hearing Examiner. No member of the West Virginia Human Rights Commission was present at the Public Hearing as both parties had previously waived their right thereto.

Proposed Findings of Fact and Conclusions of Law were submitted by the Respondent on November 15, 1985, and by the Complainants on November 25, 1985. Both of the proposals were duly considered by the hearing examiner.

B. Issues - Contentions of the Parties

Complainants - Whether the Respondent's refusal to allow the Complainant's admittance to its Club constituted racial discrimination in a place of public accommodation in violation of the West Virginia Human Rights Act.

Respondent - Whether the Respondent did not discriminate against the Complainants and was merely enforcing its Club rules when it refused admittance to the Complainants.

C. Findings of Fact

1. The Complainants, Cynthia Brown, Beatrice Brown, and Viola Strong are black women and the Complainant, Neal Strong, is a black man.

2. On March 8, 1975, the Respondent, Friar Tuck's, was the owner and operator of a Club in Parkersburg, Wood County, West Virginia.

3. Friar Tuck's policy was to admit anyone over the age of twenty-one who met its dress code and purchased a membership card.

4. It was the policy of Friar Tuck's to permit members to bring guests.

5. It was the policy of Friar Tuck's to permit people to enter the Club and purchase a membership card once they were in.

6. Complainants Cynthia Brown, Beatrice Brown, and Neal Strong were members of Friar Tuck's.

7. A reservation was made for a party of eight black people, including the four Complainants, at Friar Tuck's for the evening of March 8, 1975.

8. On the evening of March 8, 1975, Complainants Cynthia Brown and Beatrice Brown, and several other black people arrived at Friar Tuck's at approximately 11:00 p.m. and were denied admittance.

9. The Complainants and their companions were given two reasons for not being admitted to the Club - one, the Club was too crowded, and two, they did not have membership cards.

10. The Complainants and their companions waited in the alcove of the Club to be admitted. While they waited, 20-30 white people were admitted to the Club without being asked for membership cards.

11. Complainants Cynthia Brown and Beatrice Brown, and their companions were finally admitted to the Club after waiting approximately 45 minutes.

12. Complainants Neal and Viola Strong came to Friar Tuck's on March 8, 1975, at approximately 11:40 p.m. to join the group already at the Club.

13. Complainants Neal Strong and Viola Strong were denied admittance to Friar Tuck's because they did not have a membership card.

14. Mr. Strong explained that he had loaned his membership card to a member of the group that was already inside to make reservations earlier that week.

15. While Complainants Neal Strong and Viola Strong stood at the door and discussed the situation with the doorman, white people entered the Club without producing membership cards.

16. The Complainants Neal Strong and Viola Strong left Friar Tuck's without having been admitted.

17. The four Complainants felt embarrassed, angry and humiliated by the treatment they received at Friar Tuck's on March 8, 1975.

D. Conclusions of Law

1. The Complainants are all covered persons under the terms of the West Virginia Human Rights Act (W.V. Code §5-11-1 et seq).

2. The Respondent is a place of public accommodation under the terms of the West Virginia Human Rights Act, and more particularly W.V. Code §5-11-3(j).

3. All of the complaints were timely filed within ninety (90) days of the alleged act of discrimination.

4. W.V. Code §5-11-9, Unlawful discriminatory practices, states in part:

"It shall be an unlawful discriminatory practice, unless based upon a bona fide occupational qualification, or except where based upon applicable security regulations established by the United States or the State of West Virginia or its agencies or political subdivisions: . . . "

"(f) For any person being the owner, lessee, proprietor, manager, superintendant, agent, or employee of any place of public accommodations to:

(1) Refuse, withhold from, or deny to any individual because of his race, religion, color, national origin, ancestry, sex, age, blindness, or handicap, either directly or indirectly, any of the accommodations, advantages, facilities, privileges, or services of such place of public accommodations . . . "

4. The complaints established a prima facie case of unlawful discrimination in a place of public accommodation, by showing that they were members of a protected group under the West Virginia Human Rights Act; that they met the criteria for entrance into Friar Tuck's; that despite their qualifications, they were denied admittance to Friar Tuck's; and that after they were denied admittance, Friar Tuck continued to admit similarly situated persons.

5. The Respondent rebutted the Complainants' prima facie case by offering evidence of a legitimate nondiscriminatory reason for denying admittance to the Complainants, i.e., that the Club was crowded and the Complainants did not have membership cards.

6. The Complainants rebutted the nondiscriminatory reason asserted by the Respondent by showing that white people were admitted to the Club, without showing membership cards, during the time that the Complainants were told that the Club was crowded.

7. The Complainants are entitled to incidental damages as compensation for humiliation, embarrassment, emotional and mental distress, and loss of personal dignity. Pearlman v. West Virginia Human Rights Commission, 161 W.V. 1, 239 S.E. 2d 145 (1977).

E. Determination

The Respondent, Friar Tuck's, discriminated against Complainants, Beatrice Brown, Cynthia Brown, Viola Strong, and Neal Strong, on the basis of race by denying them admission to the club. The Complainants did not suffer any monetary damages as a result of the Respondent's actions, but they should be compensated for the incidental damages that they have suffered in the amount of One Hundred Fifty Dollars (\$150.00) per person. The Respondent should also be ordered to cease and desist from any further discriminatory practices.

Submitted by:

Cathryn A. Noyes
Hearing Examiner

Date:

December 6, 1985

COPY



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215 PROFESSIONAL BUILDING
1036 QUARRIER STREET
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TELEPHONE 304-348-2616

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February 24, 1986

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Howard D. Kenney
Howard D. Kenney
Executive Director

HDK/kpv
Enclosure

CERTIFIED MAIL/REGISTERED RECEIPT REQUESTED.

*APR 11 1986
STATE OF WV
HDK*

BEFORE THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

Viola Strong,)
Complainant,)
v.) PAR 192-75
Friar Tuck's,)
Respondent.)
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W.V. HUMAN RIGHTS COMM.

ORDER

On the 8th day of January, 1986, the Commission reviewed the Findings of Fact and Conclusions of Law of Hearing Examiner Cathryn A. Nogay. After consideration of the aforementioned, the Commission does hereby adopt the Findings of Fact and Conclusions

of Law as its own, with the exceptions set forth below.

The Commission hereby amends the Findings of Fact and Conclusions of Law on page 7, section E., by striking therefrom the figure One Hundred Fifty Dollars (\$150.00) and substituting therefor the figure Five Hundred Dollars (\$500.00)

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 4 day of Feb., 1986.

Respectfully Submitted



CHAIR/VICE-CHAIR
West Virginia Human
Rights Commission

A. Preliminary Matters

Complainants Neal Strong and Viola Strong filed complaints with the West Virginia Human Rights Commission against the Respondent Friar Tuck's on March 25, 1975. Complainant Beatrice Brown filed a complaint with the West Virginia Human Rights Commission against Respondent Friar Tuck's on March 21, 1975. Complainant Cynthia Brown filed a complaint with the West Virginia Human Rights Commission against Respondent Friar Tuck's on March 31, 1975. The complaints allege that the complainants, all of whom are black, were denied admittance to Friar Tuck's, a private club, because of their race, and charge the Respondent with racial discrimination in public accommodations in violation of the West Virginia Human Rights Act. These four cases and four other similar ones were informally consolidated to expedite the matters.

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B. Issues - Contentions of the Parties

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Respondent - Whether the Respondent did not discriminate against the Complainants and was merely enforcing its Club rules when it refused admittance to the Complainants.

C. Findings of Fact

1. The Complainants, Cynthia Brown, Beatrice Brown, and Viola Strong are black women and the Complainant, Neal Strong, is a black man.

2. On March 8, 1975, the Respondent, Friar Tuck's, was the owner and operator of a Club in Parkersburg, Wood County, West Virginia.

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D. Conclusions of Law

1. The Complainants are all covered persons under the terms of the West Virginia Human Rights Act (W.V. Code §5-11-1 et seq).

2. The Respondent is a place of public accommodation under the terms of the West Virginia Human Rights Act, and more particularly W.V. Code §5-11-3(j).

3. All of the complaints were timely filed within ninety (90) days of the alleged act of discrimination.

4. W.V. Code §5-11-9, Unlawful discriminatory practices, states in part:

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5. The Respondent rebutted the Complainants' prima facie case by offering evidence of a legitimate nondiscriminatory reason for denying admittance to the Complainants, i.e., that the Club was crowded and the Complainants did not have membership cards.

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Submitted by:

Cathryn A. Noyes
Hearing Examiner

Date:

December 6, 1985



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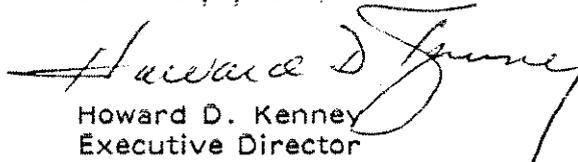
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4. The complaints established a prima facie case of unlawful discrimination in a place of public accommodation, by showing that they were members of a protected group under the West Virginia Human Rights Act; that they met the criteria for entrance into Friar Tuck's; that despite their qualifications, they were denied admittance to Friar Tuck's; and that after they were denied admittance, Friar Tuck continued to admit similarly situated persons.

5. The Respondent rebutted the Complainants' prima facie case by offering evidence of a legitimate nondiscriminatory reason for denying admittance to the Complainants, i.e., that the Club was crowded and the Complainants did not have membership cards.

6. The Complainants rebutted the nondiscriminatory reason asserted by the Respondent by showing that white people were admitted to the Club, without showing membership cards, during the time that the Complainants were told that the Club was crowded.

7. The Complainants are entitled to incidental damages as compensation for humiliation, embarrassment, emotional and mental distress, and loss of personal dignity. Pearlman v. West Virginia Human Rights Commission, 161 W.V. 1, 239 S.E. 2d 145 (1977).

E. Determination

The Respondent, Friar Tuck's, discriminated against Complainants, Beatrice Brown, Cynthia Brown, Viola Strong, and Neal Strong, on the basis of race by denying them admission to the club. The Complainants did not suffer any monetary damages as a result of the Respondent's actions, but they should be compensated for the incidental damages that they have suffered in the amount of One Hundred Fifty Dollars (\$150.00) per person. The Respondent should also be ordered to cease and desist from any further discriminatory practices.

Submitted by:

Cathryn A. Nozay
Hearing Examiner

Date:

December 6, 1985