



City of Chicago
COMMISSION ON HUMAN RELATIONS
740 N. Sedgwick, 3rd Floor, Chicago, IL 60654
312/744-4111 (Voice), 312/744-1081 (Fax), 312/744-1088 (TDD)

IN THE MATTER OF:

Aunya Stephens
Complainant,
v.

L & P Foods and Louis A. Gikas
Respondents.

Case No.: 08-P-43

Date of Ruling: December 15, 2010

Date Mailed: December 17, 2010

TO:

Aunya Stephens
4547 S. Greenwood
Chicago, IL 60653

Theodore T. Poulos
Cotsirilos, Tighe, & Streicker
33 N. Dearborn, Suite 600
Chicago, IL 60602

FINAL ORDER

YOU ARE HEREBY NOTIFIED that, on December 15, 2010, the Chicago Commission on Human Relations issued a ruling in favor of Respondent in the above-captioned matter. The findings of fact and specific terms of the ruling are enclosed. Based on the ruling, this case is hereby **DISMISSED**.

Pursuant to Commission Regulations 100(15) and 250.150, Complainant may seek a review of this Order by filing a petition for a common law *writ of certiorari* with the Chancery Division of the Circuit Court of Cook County according to applicable law.

CHICAGO COMMISSION ON HUMAN RELATIONS
Dana V. Starks, Chair and Commissioner

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(312) 744-4111 [Voice], (312) 744-1081 [Facsimile], (312) 744-1088 [TTY]

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FINAL RULING ON LIABILITY AND RELIEF

I. INTRODUCTION

On July 2, 2008, Complainant Aunya Stephens filed this Complaint with the City of Chicago Commission on Human Relations, alleging that Respondents L & P Foods and Louis A. Gikas engaged in race and parental status discrimination by refusing to allow her to shop in the showroom of the L & P Foods store with her ten-year-old daughter. Complainant claims that Respondents' actions violate Chapter 2-160 of the Chicago Municipal Code—the Chicago Human Rights Ordinance—because Respondents limited her full enjoyment of a public accommodation based on her race and parental status. On August 13, 2008, Respondent filed a Response to Complaint denying the allegations.

On June 30, 2009, the Commission entered an Order Finding Substantial Evidence. After a settlement conference failed to result in settlement, an administrative hearing was scheduled and held on July 9, 2010. On October 13, 2010, the hearing officer issued his recommended ruling in favor of Respondents. No objections have been filed.

II. FINDINGS OF FACT

1. Ms. Aunya Stephens is African-American. Stephens has a daughter, Kennedy, who was ten years old on the date of the incident in question and who is also African-American. (Complaint, Par. 1; Tr. 13)
2. Respondent L & P Foods ("L & P") is a cash and carry store that sells primarily large bulk foods; candy, ice, soft drinks, and restaurant supplies. The merchandise is sold in a 20,000-square-foot showroom area. L & P Foods is located at 7047 S. State Street in a predominantly African-American neighborhood on the south side of Chicago. L & P Foods has been in business for over thirty years. (Tr. 81-82) L & P Foods routinely utilizes heavy equipment such as forklifts to move its merchandise in the showroom area. (Tr. 82)
3. Respondent Louis Gikas is one of the owners of L & P Foods. He is white of Greek heritage. (Tr. 142)

4. L & P Foods has approximately 50 employees, of whom approximately 80% are African-American or members of other minority groups. The remaining employees are white and are related to the owners of L & P Foods. (Tr. 83-84)
5. On an average Saturday, L & P serves approximately 1,700 customers. (Tr. 85) Approximately 95% of the sales of L & P Foods are to African-American customers. (Tr. 86)
6. L & P Foods maintains a long-standing policy that children under the age of eighteen are not allowed to enter its showroom unless they are small enough to be placed in a shopping cart. Children who are too large to be placed in a shopping cart are required to wait in a seating area, located near the front entrance of the store, under the supervision of L & P security officers. L & P has a sign posted at the showroom entrance explaining its policy. The policy is also contained in L & P's advertisements in local newspapers. (Tr. 82-83; Resp. Exs. 1, 2, 3)
7. The child policy is enforced by L & P's security officers, who are stationed near the front entrance of the store. All four of L & P's security officers are African-American. (Tr. 88) Testimony at the hearing by Gikas and Security Officer Rick Robinson was that the policy had always been uniformly enforced. (Tr. 87-88, 136-138)
8. The posted policy states: "This procedure is for the safety of your child! Our warehouse has fork-lifts and electric pallet jacks that operate throughout the sales premises, for insurance purposes we request that your child remain at the front of the store, or if they are young and small they can go into & remain in a shopping cart. A security guard will always be present!!" (Resp. Ex. 2)
9. On June 7, 2008, at approximately 12:30 p.m., Stephens entered L & P for the first time, intending to shop with her ten-year-old daughter. (Tr. 13-14, 48)
10. Stephens was not aware of L & P's policy regarding children at the time she entered the store. (Tr. 48)
11. Robinson, an off-duty Chicago police officer, was the security officer on duty at that time. (Tr. 133-136)
12. When Stephens walked into the store with her daughter, Robinson stopped her from entering the showroom and advised her of L & P's policy. Robinson told Stephens that she could not enter the showroom with her daughter walking; she either had to leave her daughter at the front of the store or, if she could fit, place her in the shopping cart. (Tr. 139)
13. Stephens denies that she was ever told that she could put her daughter in the shopping cart. (Tr. 53)
14. Stephens became very upset that she was not allowed to shop with her daughter. She told Robinson that not all black children steal. Stephens refused to follow the policy and instead demanded to speak with the store manager. (Tr. 36-37, 139-40)
15. Robinson directed Stephens to speak with Respondent Gikas. When Gikas also refused to allow Stephens into the showroom with her daughter, Stephens admittedly became

very angry, raised her voice, and "blew up" at Gikas. Stephens told Gikas that she was "going to be like a black piece of shit in his behind until he did the right thing," which Stephens testified meant "allowing mothers to shop with their children...it doesn't matter what age..." (Tr. 58-59, 141)

16. Gikas then asked Stephens to leave the premises and Stephens left voluntarily. (Tr. 141)

17. Approximately one month later, in an attempt to prove that she was discriminated against because of her race, Stephens went back to L & P with her white friend Hope Sharp as well as Sharp's eight-year-old daughter, Elle, and her own daughter, Kennedy. Stephens took a video recorder with her and recorded the visit. (Tr. 22-25)

18. Although Stephens no longer has a copy of the recording, she had previously placed the video on YouTube's website and it had been seen by counsel for Respondents. The parties stipulated that, although the video showed that Elle entered the showroom and Kennedy did not, Elle had got into a shopping card before even entering the store, while Kennedy did not get into a cart and did not try to enter the showroom. (Tr. 78-80)

III. APPLICABLE STANDARDS

Section 2-160-070 of the Chicago Human Rights Ordinance makes it unlawful for a person that "owns, leases, rents, operates, manages or in any manner controls a public accommodation [to]...discriminate concerning the full use of such public accommodation by any individual because of the individual's race...[or] parental status." CCHR Reg. 520.100 further states that "[d]iscriminatory acts include, but are not limited to: denying admittance to persons in a Protected Class [and] using different terms for admittance of persons in a Protected Class...."

The Chicago Human Rights Ordinance defines a public accommodation as a "place, business establishment or agency that sells, leases, provides or offers any product, facility or service to the general public...." Sec. 2-160-020(j), Chicago Muni. Code. It defines "parental status" as "the status of living with one or more dependent minor or disabled children." Sec. 2-160-020(i), Chicago Muni. Code.

IV. CONCLUSIONS OF LAW AND ANALYSIS

A. Parental Status Discrimination

Stephens claims that Respondents discriminated against her because of her parental status because she was not allowed to enter L & P's showroom with her daughter unless her daughter was placed in a shopping cart.

A similar case before the Commission on Human Relations dealt with parental status discrimination in the public accommodations context. In *Voci v. National Kitchen and Bath Assoc. et al.*, CCHR No. 94-PA-2729 (Mar. 13, 1996), the Commission held that the respondents' policy in that dispute, which did not allow children under 16 to attend a trade show, did not discriminate against the complainant parents because of their parental status because it "does not target parents who live with children, *per se*." The Commission went on to explain: "A parent who lives with a child under 16 could attend [the trade show] (so long as the child did not come) and a person who does not live with a young child but who tries to attend with one would be forbidden entry. The determinant is not whether or not a person is a parent who lives with children."

The same rationale applies here. L & P's policy against admitting children under the age of eighteen does not specifically target parents who live with dependent children. Under L & P's policy, Stephens would have been able to enter the showroom, despite living with a depending child, under several circumstances: first, by coming to the store without her daughter; second, by leaving her daughter in the children's waiting area under the supervision of L & P's security officers while she shopped; or third, entering with her daughter if she had placed her in a shopping cart. That Stephens is a parent and lives with a dependent daughter is not what prevented her from shopping at L & P. Rather, it was her insistence that her daughter shop with her, but not in a shopping cart, that prevented Stephens from entering L & P's showroom.

Accordingly, Stephens has not proved that Respondents subjected her to parental status discrimination.

B. Race Discrimination

Stephens also claims that L & P's refusal to allow her to enter the showroom with her daughter, unless her daughter was in a shopping cart, was race discrimination. The only arguments Stephens has for this claim are, first, that L & P's policy is inconsistently enforced at the discretion of security based on physical characteristics and their personal feelings; and second, that her white friend was allowed to shop with her daughter.

There is no evidence that L & P's policy was left to the discretion of its security officers or not enforced consistently. Stephens' assertion that she was never afforded the option to have her child enter the showroom in a shopping cart was found not credible by the hearing officer in his recommended ruling. The hearing officer found that Robinson, an African-American police officer, credibly testified that he has enforced the child policy uniformly for six years, that he has never been instructed to discriminate against anyone, that the child policy sign has always been posted during his employment at L & P, and that the only discretion he exercises is to determine whether a child is eighteen or older.

With the overwhelming percentage of Respondents' customers and employees being African-American, a discriminatory policy would surely be implausible. Moreover, Stephens testified that she saw other children sitting at the front of the store in the children's waiting area. She was not singled out when she was prohibited from entering the showroom with her daughter unless she placed her daughter in a shopping cart.

Second, the evidence does not support Stephens' argument that her white friend was allowed to shop with her daughter but she was not. Hope Sharp's daughter Elle was allowed to enter the showroom in a shopping cart, consistent with Respondents' policy, but Stephens refused to avail herself of this option. Stephens, too, could have shopped in the showroom with her daughter, had she placed her in a shopping cart.

Finally, Respondents provided a legitimate, non-discriminatory reason for their policy, which has not been shown to be pretextual. Despite Stephens' argument to that effect, there is no evidence that the child policy was based on the presumption that all black children steal. Respondents' witnesses testified and the policy signage consistently indicated that the policy is based on safety concerns because of the operation of heavy equipment, including forklifts and electric pallet jacks, in the showroom. Other than to argue that other wholesale-type stores such as Sam's or Costco allow children, Stephens has not presented any evidence refuting

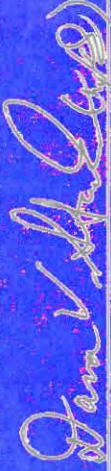
Respondents' stated reason for their policy or showing it was a pretext to discriminate. That Stephens may think the policy unwise is not sufficient to prove that it is discriminatory.

In summary, Stephens has not established by a preponderance of the evidence that Respondents discriminated against her based on her race or otherwise violated the Chicago Human Rights Ordinance.

V. CONCLUSION

Accordingly, the Commission finds in favor of Respondents and specifically finds that Complainant Aurnya Stephens has not proved her allegations of race discrimination or parental status discrimination against Respondents L & P Foods and Louis A. Gikas. Accordingly, this Complaint is **DISMISSED**.

CHICAGO COMMISSION ON HUMAN RELATIONS



By: Dana V. Starks, Chair and Commissioner

Entered: December 15, 2010