



City of Chicago
COMMISSION ON HUMAN RELATIONS
740 N. Sedgwick, 4th Floor, Chicago, IL 60654
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IN THE MATTER OF:

Carnell Pigram
Complainant,

v.

Elects Realty Champions LLC and Margaret
Taiwo
Respondents.

Case No.: 14-H-77

Date of Ruling: April 14, 2016

Date Mailed: May 2, 2016

TO:

Kevin Cruz
John Marshall Law School
Fair Housing Legal Clinic
315 S. Plymouth Court
Chicago, IL 60604

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FINAL ORDER

YOU ARE HEREBY NOTIFIED that, on April 14, 2016, the Chicago Commission on Human Relations issued a ruling in favor of Respondents 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, a party may obtain 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.

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FINAL RULING ON LIABILITY

I. INTRODUCTION

On October 30, 2014, Complainant Carnell Pigram filed a Complaint of source of income discrimination alleging that Respondents discriminated against him because he is a Housing Choice Voucher recipient, in violation of the Chicago Fair Housing Ordinance, Chapter 5-8-30, when he was denied the opportunity to rent an apartment. On May 14, 2015, the Commission made a finding that there was substantial evidence of source of income discrimination in violation of the Ordinance as alleged by Complainant.

The Commission held an administrative hearing on November 18, 2015. All parties were represented by counsel. Complainant testified on his own behalf, and called Respondent Margaret Taiwo as an adverse witness. Respondent Taiwo took the stand in her defense and called Anita McDaniels-Onifade as an additional witness. On December 29, 2015, Complainant filed a Post-Hearing Memorandum. Respondents requested additional time in which to file a post-hearing memorandum, by e-mail. Respondents did not file a timely motion for an extension of time. Ultimately, Respondents did not file a post-hearing memorandum.

On January 11, 2016, the hearing officer issued his Recommended Decision on Liability and Relief. No objections were filed.

II. FINDINGS OF FACT

1. For the past 12 years, Complainant Carnell Pigram has lived at 7306 North Ridge, Apartment 1B, in the City of Chicago. (Tr. 11:11).
2. Mr. Pigram's sole source of income is derived from Supplemental Security Income (SSI) disability benefits. The amount of his monthly income at the time he allegedly sought to rent an apartment from Respondent Margaret Taiwo is unclear. Beginning December 2014, Mr. Pigram was receiving \$814 per month in SSI benefits. (Cp. Ex. #3). When he contacted Ms. Taiwo on or about October 29, 2014, he told her that his monthly income was \$580. (Tr. 51:1).
3. In addition to his SSI benefits, Mr. Pigram was a Housing Choice Voucher (formerly known as "Section 8") holder. Mr. Pigram's voucher, dated October 2, 2014, indicates

an adjusted monthly income of \$771, and authorized a Gross Maximum Rent of \$1,046, with the Chicago Housing Authority providing a maximum subsidy of \$738 per month and Mr. Pigram responsible for the balance. (Cp. Ex. #4).

4. Mr. Pigram testified that in September of 2014, he was looking for an apartment because his landlord wanted him to move. (Tr. 16:9 -16:10).
5. Mr. Pigram testified that after he got off a bus and walked down Touhy, he saw a sign that said "For Rent," and called the number, which resulted in his speaking with Ms. Taiwo. (Tr. 17:12). When asked what was said during the conversation, Complainant said, "We were talking about a one bedroom apartment. She told me to come right over and I went right over." (Tr. 17:19).
6. Mr. Pigram testified that he walked over to the office of Elects Realty Champions which was about 4-5 blocks away. When asked what they talked about, Complainant could only state that they talked about a one-bedroom apartment. Mr. Pigram told Ms. Taiwo that he was going to pay for the apartment with his Housing Choice Voucher. Mr. Pigram stated, "She said she don't take such thing," and referred him to two other locations – "753 on Ridge and 627 in Calumet City." (Tr. 19-21).
7. The hearing officer determined that at no point in Mr. Pigram's testimony did he identify the specific apartment that he was supposedly talking to Ms. Taiwo about which she was allegedly referring to when she said that she "don't take such thing."¹ The hearing officer found that this incident did not occur as described by Complainant.
8. After saying that Ms. Taiwo referred him to two locations, on Ridge and in Calumet City, Complainant's attorney showed him a piece of paper on which Ms. Taiwo had written two addresses: 4640 Sheridan and another address on Wilson and Sheridan. (Cp. Ex. #6). The hearing officer found that Mr. Pigram falsely testified that Ms. Taiwo told him nothing about "the apartment," though the apartment to which he was referring is unclear. (Tr. 21-22). He says Ms. Taiwo did not tell him the address of "the apartment" or the rental amount. Ms. Taiwo refused to give him an application or provide instructions to him on how to apply for an apartment at a later date. She just said, "You can go." (Tr. 22:10).
9. Mr. Pigram never moved from the apartment he was living in during his encounter with Ms. Taiwo. He says that his landlord changed her mind about his having to move. They came to an agreement so that he could stay in his current apartment. (Tr. 22:21). This happened, according to Mr. Pigram, the same day that he was turned down for another apartment by Group Fox Management, not long after speaking with Ms. Taiwo.
10. On cross examination, Mr. Pigram testified that he never told Ms. Taiwo about his SSI benefits or any other government benefit:

(Tr. 28:22-29:9)

28

22 Q So you said that you didn't tell Ms. Taiwo that you
23 had an SSI report?

¹ In an oral statement to the CCHR Investigator on April 17, 2015, (admitted into evidence by stipulation of the parties) Complainant acknowledged that he did not provide Ms. Taiwo with a specific rental property address or rental amount.

24 A No, no, no, no, no. She -- I didn't mention
29

1 nothing. I went there for a one-bedroom apartment.

2 Q So you didn't mention --

3 A I didn't mention nothing.

4 Q So for the record, you did not mention --

5 A No, I didn't mention nothing.

6 Q -- any form of government payments that you're
7 receiving?

8 MR. CRUZ: Your Honor, I'm going to object to hearsay.

9 THE WITNESS: Yep.

11. The hearing officer found that after a baseless evidentiary objection by Complainant's counsel, Mr. Pigram appeared to remember what his story was supposed to be. He then testified that he told Ms. Taiwo "that he got Section 8." (Tr. 30:21). When asked if he told her the amount of the "Section 8," Mr. Pigram said that he told her that it was "eight something." (Tr. 30:23). Mr. Pigram later clarified that he was referring to his SSI benefits and he was not sure whether he mentioned the amount of his Housing Choice Voucher. (Tr. 31-32).²
12. The hearing officer found that Mr. Pigram was not a credible witness. His testimony lacked detail, requiring his counsel to lead him to the material elements of his encounter with Ms. Taiwo. Mr. Pigram's tone of voice was filled with uncertainty, and he made little eye contact with the hearing officer. He appeared to have little, if any, recollection of his true encounter with Ms. Taiwo.
13. Respondent Margaret Taiwo, testifying both as an adverse party witness and on direct examination, told a very different story; one that the hearing officer credited completely.
14. Ms. Taiwo is the owner and managing broker of Elects Realty Champions LLC. (Tr. 43:17).
15. On or about October 29, 2014, Ms. Taiwo received a telephone call from a person who identified himself as "George." (Tr. 48:4). George left a message for her and she called him back that same day. During the return phone conversation, Ms. Taiwo told "George" to bring with him two forms to verify his most recent income. (Tr. 65:20). The reason for this was to show that he was a viable applicant, and to attach to an application that could be submitted on his behalf if there was an acceptable MLS listing. (Tr. 66:7). She invited him to come to her office. Shortly thereafter, the same day, the person who Ms. Taiwo now knows is Carnell Pigram appeared, identifying himself, once again, as "George." (Tr. 50:5).
16. Ms. Taiwo is a real estate broker who handles both sales and rentals. On October 29, 2014, she had no listings of her own for a one-bedroom apartment that were then available for rent. (Tr. 50:15). However, there were numerous one-bedroom apartments in the Rogers Park area, where Mr. Pigram lived, listed on the Multiple Listing Service (MLS).

² The hearing officer noted that Mr. Pigram never testified that he introduced himself by name to Ms. Taiwo.

17. When Mr. Pigram appeared at Ms. Taiwo's office, he refused to show her his identification; refused to fill out an application; and did not bring any form of documentation to support his stated income. (Tr. 66-67). He just identified himself as "George."
18. During their encounter, "George" told Ms. Taiwo that his income was \$580 per month and that the source was SSI benefits. (Tr. 51:5). He never mentioned any "Section 8" or any "Section 8 voucher." (Tr. 53:1).
19. Ms. Taiwo opened the MLS to show Mr. Pigram what was available in Rogers Park and the cheapest one-bedroom apartment available that day was listed at \$840 per month. (Tr. 53:22). Ms. Taiwo clearly remembered that the listing was on Damen. When she asked Mr. Pigram whether he had any other income he said he did not. (Tr. 67:21). She then asked, "Why don't you ask your landlord if he will allow you to stay where you are?" (Tr. 67:23-24).
20. Believing his monthly income to be \$580 and in an effort to assist Mr. Pigram, Ms. Taiwo told him about two buildings for low-income residents. (Tr. 55:1). He then asked her to write them out for him, and she did. These two listings were not on the MLS, but were Chicago Public Housing services. (Tr. 55:16-17). Ms. Taiwo found these listings by Googling, looking for housing for very low income individuals. (Tr. 68:16) The entries found read as follows:
 1. 4460 N. Sheridan Rd. Ask for management office to submit application.
 2. Gunnison and Sheridan – Opposite Boys and Girls club. Ask for management office to submit application. (Cp. Ex. #6).
21. The hearing officer found that the request by Mr. Pigram to have Ms. Taiwo write the two referrals down and give them to him, was in furtherance of his plan to fabricate a legal claim against Ms. Taiwo.
22. Ms. Taiwo gave "George" these referrals because she was trying to assist him in finding housing even though she believed, based upon his representations, that he only received \$580 per month in SSI benefits. She credibly testified as follows:

(Tr. 56:4-56:11)

23 Q Mr. Pigram came into your office looking for a
24 one-bedroom apartment, correct?

56

1 A Mr. Pigram came to my office seeking for
2 accommodation, and when Mr. Pigram came to my office he
3 presented -- he told me his only income is \$580 per month.

4 Q But you also --

5 A And these places were the places where \$580 could
6 rent him comfortably without him being in stress of anything
7 for one bedroom.

8 Q So you recommended these places because of his
9 source of income, correct?

10 A I recommended these places not because of his source
11 of income but because of his need.

23. Because he refused to fill out an application, Ms. Taiwo gave Mr. Pigram her card. (Tr. 69:14).
24. Ms. Taiwo testified that she has found rental housing for other clients of her realty company who presented a Housing Choice Voucher as their source of income. Ms. Taiwo presented business records that showed that she acted as a broker in renting apartments to tenants who were Housing Choice Voucher holders on at least three occasions between 2008 and 2011. (Tr. 80-82; Rp. Ex. I).
25. Respondents presented the testimony of Alvita McDaniels-Onifade, a tenant of Respondents in 2015. She testified to the procedure used by Ms. Taiwo to find her an apartment, including taking a written application, performing a background and credit check, and then arranging for her to see apartments found on her computer – presumably off of the MLS. (Tr. 88-89).
26. Since Ms. McDaniels-Onifade was not a Housing Choice Voucher holder, the hearing officer determined that her testimony was of little value to the case.

III. CONCLUSIONS OF LAW

1. The City of Chicago Commission on Human Relations has proper jurisdiction over the parties and over the subject matter of this controversy.
2. Respondents did not refuse to rent a housing accommodation to Complainant because of his source of income.
3. Respondents did not steer Complainant to a housing accommodation because of his source of income.
4. Respondents did not express a preference or limitation to Complainant based upon his source of income.
5. Respondents did not violate the Chicago Fair Housing Ordinance. Rather, Complainant presented false testimony in this matter in an effort to falsely bring this action against Respondents.

IV. DISCUSSION

Section 5-8-030 of the Chicago Fair Housing Ordinance (CFHO) provides in relevant part as follows:

It shall be an unfair housing practice and unlawful for any owner, lessee, sublessee, assignee, managing agent, or other person, firm or corporation having the right to sell, rent, lease or sublease any housing accommodation, within the City of Chicago, or any agent of any of these, or any real estate broker licensed as such:

- A) To make any distinction, discrimination or restriction against any person in the price, terms, conditions or privileges of any kind relating to the sale, rental, lease or occupancy of any real estate used for residential purposes in the City of Chicago or in furnishing of any facilities or services in connection therewith, predicated upon the race, color, sex, age, religion, disability, national origin,

ancestry, sexual orientation, marital status, parental status, military discharge status or source of income of the prospective or actual buyer or tenant thereof.

In addition, CCHR Reg. 420.130(a) specifically provides:

It is a violation of the CFHO for a person to refuse to sell, rent or lease a dwelling to a person or to refuse to negotiate with a person for the sale, rental or leasing of a dwelling because of that person's membership in a Protected Class....Such prohibited actions include, but are not limited to:

- a) Failing to accept or consider a person's offer because of that person's membership in a Protected Class;

Similarly, CCHR Reg. 420.105 provides:

Any inquiry in connection with a prospective rental or sale which directly or indirectly expresses any limitation, specification or discrimination as to membership in a Protected Class shall be deemed a Violation of the CFHO unless based upon a *bona fide* business reason.

The Commission has unequivocally held that the refusal to rent a home or an apartment because the source of rental payments will be through the Section 8 or Housing Choice Voucher program violates the prohibition against discrimination on the basis of source of income under the CFHO. *Shipp v. Wagner*, CCHR No. 12-H-19 (July 16, 2014). The Commission has long since determined that a Housing Choice Voucher is a "source of income" under the CFHO. See *Smith et al. v. Wilmette Real Estate & Mgmt. Co.*, CCHR Nos. 95-H-159 & 98-H-44/63 (Apr. 13, 1999). This determination was upheld by the Illinois Appellate Court in *Godinez v. Sullivan-Lackey*, 815 N.E.1d 822 (Ill.App. 2004), affirming *Sullivan-Lackey v. Godinez*, CCHR No. 99-H-89 (July 19, 2001). Thus, a landlord's refusal to consider potential tenants because they have a Section 8 voucher constitutes unlawful discrimination under the CFHO. See, e.g., *Marshall v. Gleason*, CCHR No. 00-H-1 (Apr. 23, 2004); *Lopez v. Arias*, CCHR No. 99-H-12 (Sept. 21, 2000); *Torres v. Gonzales*, CCHR No. 01-H-46 (Jan. 18, 2006); *Draft v. Jercich*, CCHR No. 05-H-20 (July 6, 2008); *Sercye v. Reppen & Wilson*, CCHR No. 08-H-42 (Oct. 21, 2009); *Diaz v. Wykurz and Locasio*, CCHR No. 07-H-28 (Dec. 16, 2009).

Complainant has the burden of proving his discrimination claim by a preponderance of the evidence using either the direct or indirect methods of proof. *Torres v. Gonzales, supra.*; *Jones v. Shaheed*, CCHR No. 00-H-82 (Mar. 29, 2004). Under the direct evidence method in a fair housing case, a complainant may meet his burden of proof through credible evidence that the respondent directly stated or otherwise indicated that s/he would not offer housing to a person based on a protected class, such as having and intending to use a Section 8 voucher. *Jones, supra* at 8. Direct evidence is that which, if believed, will allow a finding of discrimination with no need to resort to inferences. *Richardson v. Boy Scouts of America*, CCHR No. 92-E-80 (Feb. 21, 1996); *Matias v. Zachariah*, CCHR No. 95-H-110 (Sept. 18, 1996).

The indirect method of proof includes the shifting burden analysis described by the Supreme Court in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802 (1973), and followed by the Commission. *Gleason, supra* at 8. Using this method in a housing discrimination case, the Complainant must initially establish a *prima facie* case. He may do so by showing that he (1) belongs to a protected class; and (2) was denied the opportunity to rent or own housing that was available; or (3) was offered housing on terms different from the offers made to others. *Id.* at

11. The burden then shifts to the respondent to articulate a legitimate, nondiscriminatory reason for the refusal to rent, sell, or offer identical terms. If the Respondent satisfies this burden, the Complainant may still prevail if s/he shows that the articulated reason is a pre-text for discrimination. *Id.*

Complainant has not satisfied his burden under either the direct or indirect methods of proof. The primary reason for this is that his testimony is not worthy of credence.

Complainant testified that he was looking for a new apartment because his landlord at the apartment where he has lived for the past twelve years just wanted him to move. Complainant never provided a reason. Then, after he was turned down for two apartments, the landlord magically changed his/her mind. Complainant again never provided a reason. Complainant remains in the same apartment, now 14 months after he claimed that Ms. Taiwo refused to rent to him.

The hearing officer determined that Ms. Taiwo convincingly testified that when Complainant appeared at her office on October 29, 2014, he identified himself as "George," refused to present any identification, brought no verification of his income despite her telephone request that he do so, and refused to fill out a written application. Tellingly, Complainant never rebutted the testimony that he used the name "George" when dealing with Ms. Taiwo. He never rebutted the testimony that he brought no forms verifying his income. While he was led by his attorney to say that Ms. Taiwo never offered him an application, that testimony was not credible. Complainant repeatedly confused his dealings with Respondent Elects Realty Champions, with his dealings with Group Fox Management. When asked by his attorney whether he was given an application form, Complainant replied, "On-line." Complainant's attorney then tried to bring him back to his story, to which he replied that he was not given an application. (Tr. 34:16-34:21).

The hearing officer further determined that Complainant's testimony that Ms. Taiwo first asked him to sit down, talked about a one-bedroom apartment, and then wrote down two names which she gave to him, defies belief. During the hearing when Complainant was asked where Ms. Taiwo referred him, before being shown Exhibit #6, he testified, "753 on Ridge and 627 in Calumet City." (Tr. 20:12). Neither of these addresses appears on the exhibit.

In contrast to Complainant's testimony, Ms. Taiwo very professionally and without hesitation, testified to the circumstances which led to her trying to help Complainant by writing down two locations that she found on her computer that might assist a tenant with an income of only \$580 per month. The hearing officer found it highly unlikely that had Complainant represented that he was a Housing Choice Voucher recipient authorized to rent a dwelling for up to \$1,046 per month, Ms. Taiwo would have referred him to housing for very low income residents.

The hearing officer was convinced from the testimony that Complainant, using the name "George," set out to fabricate a claim under the CFHO with no intention of seeking housing. No evidence was presented that Ms. Taiwo's explanation that she could not find a one-bedroom apartment for him in Rogers Park because he told her his income was \$580 per month, was pretextual. The fact that Complainant's SSI Statement of Benefits shows that effective December 14, 2014, his benefits were \$814 is of no consequence, since admittedly, he never showed Ms. Taiwo that form and never even testified that he told her the specific amount of his monthly income. In fact, when first questioned, Complainant stated that he mentioned "nothing" about his income or the receipt of any government benefits.

Complainant argues that the facts of his case are similar to that found in *Sercye v. Reppen et al.*, CCHR No. 08-H-42 (Oct. 21, 2009). The difference between *Sercye* and the instant case is that the complainant in *Sercye* was found to be truthful with regard to the direct evidence she presented, and in the instant case Complainant was not.

In sum, after examining all of the evidence, the hearing officer concluded that Complainant has failed to satisfy his burden of showing by a preponderance of the evidence that his source of income was the reason that he was denied an opportunity to lease an apartment.

V. CONCLUSION

In weighing evidence and making findings of fact, a hearing officer must determine the credibility of witnesses. *Poole v Perry & Associates*, CCHR No. 02-E-161 (Feb. 15, 2006); *Claudio v. Chicago Baking Co.*, CCHR No. 99-E-76 (July 17, 2002). The Commission reviews a hearing officer's proposed findings of fact pursuant to Section 2-120-510(1) of the Chicago Municipal Code, which provides in pertinent part: "The commission shall adopt the findings of fact recommended by a hearing officer...if the recommended findings are not contrary to the evidence presented at the hearing." This standard of review takes into account that the hearing officer has had the opportunity to observe the testimony and demeanor of witnesses. *Poole, supra*; see also *McGee v. Cichon*, CCHR No. 96-H-26 (Dec. 30, 1997). The Commission will not re-weigh a hearing officer's recommended findings of fact unless they are against the manifest weight of the evidence. *Stovall v. Metroplex et al.*, CCHR No. 94-H-87 (Oct. 16, 1996); *Wiles v. The Woodlawn Organization et al.*, CCHR No. 96-H-1 (Mar. 17, 1999).

Applying these standards, the Commission finds that the recommended findings of fact of the hearing officer, including his credibility determinations, are fully supported by the evidence received at the administrative hearing. Therefore, the Commission adopts them without modification. The Commission has also reviewed the hearing officer's recommended conclusions of law and finds them well-founded.

For all of the above reasons, the Commission finds in favor of Respondents Elects Realty Champions LLC and Margaret Taiwo and against Complainant Carnell Pigram on Complainant's source of income discrimination claim. The Complaint is hereby DISMISSED.

CHICAGO COMMISSION ON HUMAN RELATIONS


By: Mona Noriega, Chair and Commissioner
Entered: April 14, 2016