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Equal Employment Opportunity Commission, Plaintiff, v. Quality Foods Cooperative, Inc., Defendant.

Judge Norman K. Moon

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Equal Employment Opportunity Commission, Plaintiff, v. Quality Foods Cooperative, Inc., Defendant.

Keywords

Equal Employment Opportunity Commission, Quality Foods Cooperative Inc., 6:03-cv-00068-nkm-mfu, Consent decree / Settlement, Disparate Treatment, Failure to Accommodate, Termination, Retail, Employment Law, ADA

CLERK'S OFFICE U.S. DIST. COURT
AT LYNCHBURG, VA
FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

JUN 01 2004
JOHN F. CORCORAN, CLERK
BY: *[Signature]*
DEPUTY CLERK

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

QUALITY FOODS COOPERATIVE, INC.

Defendant.

Civil Action No. 6:03cv00068

CONSENT DECREE

This action was instituted on September 11, 2003, by Plaintiff, the Equal Employment Opportunity Commission ("Plaintiff" or "EEOC"), against Defendant, Quality Foods Cooperative, Inc ("Defendant" or "Quality Foods"), pursuant to Title I of the Americans with Disabilities Act of 1990 ("ADA") and Title I of the Civil Rights Act of 1991.

The EEOC's Complaint ("the Complaint") alleges that in or about February 2001, Defendant unlawfully failed to accommodate Ms. Tina Harris, a qualified individual with a disability, resulting in her discharge from her employment with Defendant. Quality Foods denies that it has engaged in unlawful conduct and denies the allegations set forth by the EEOC.

The parties desire to resolve this action without the time and expenditure of contested litigation. The parties also desire to express a plan to be embodied in this Decree which will promote and effectuate the purposes of the ADA.

The Court has examined this Decree and finds that it is reasonable and just and in accordance with the Federal Rules of Civil Procedure and the ADA. Therefore, upon due consideration of the record herein and being fully advised of the premises, it is hereby ORDERED, ADJUDGED, and DECREED:

1. The parties agree that this Decree is voluntarily entered into by the parties, that it shall not constitute an adjudication and finding on the merits of the case and shall not be construed as an admission by Quality Foods that it violated the ADA nor a disavowal by the EEOC of the allegations contained in its Complaint. This Decree constitutes a full discharge and satisfaction of any and all claims which have been alleged in the Complaint filed in this ADA action by the EEOC based on the EEOC charge filed by Tina Harris (EEOC administrative charge number 122-A1-0374).

2. Jurisdiction to resolve any dispute arising under this Decree resides in the United States District Court for the Western District of Virginia, Lynchburg Division.

3. The parties agree to the following provisions:

A. Monetary Relief

Defendant agrees to send a check payable to Tina Harris, Charging Party, to an address to be provided, in the monetary amount of \$13,500, including back pay and compensatory damages, within ten (10) days after this Decree is entered by the Court.

B. Injunctive Relief with regard to the Charging Party

Defendant agrees that it will not include any records or documents relating to Ms. Harris's filing of a charge of discrimination with the Commission, or the Commission's lawsuit against Defendant, in Ms. Harris's personnel files wherever maintained.

C. Compliance With Applicable Employment Laws

Quality Foods shall comply in all respects with the Americans with Disabilities Act which prohibits discrimination on the basis of disability in any phase of employment and reasonable accommodation of qualified individuals with a disability. The ADA also contains prohibitions against retaliation against persons who pursue charges of discrimination.

D. Quality Foods' Policies and Procedures

Quality Foods shall ensure that it has adopted policies and procedures regarding the Americans with Disabilities Act ("ADA"), the ADA's prohibition of discrimination based on disability, and the ADA's requirements for reasonable accommodation and provided clear guidelines for employees and supervisors and managers concerning rights and responsibilities under the ADA.

E. Training

Within 90 days of the execution of this Decree, Quality Foods will provide training to the Quality Foods' management team regarding the ADA's prohibition of discrimination on the basis of disability and employees' rights under the ADA under the supervision of the law firm of Williams Mullen. A record of this training shall be maintained by Quality Foods. A provision shall be made for providing new management employees with ADA training within a reasonable time after their hiring.

F. Notice Requirement

Upon execution of this Decree, Quality Foods will immediately post on its employee bulletin board, and maintain for a period of one (1) year from the date of posting, copies of the Notice attached hereto as Exhibit 1 and made a part hereof. Said Notice shall be signed by a Defendant official with the date of actual posting shown thereon. Should any Notice become defaced, marred or otherwise made unreadable, Defendant will ensure that a new readable copy of that Notice is posted in the same manner heretofore specified.

G. Length of Decree

This Decree shall remain in full force and effect for one (1) year subsequent to the date of its execution.

4. Both the EEOC and the Defendant shall bear their own costs, expenses, and attorney's fees incurred in connection with this action.

5. Following execution of this Decree, this case is dismissed and stricken from the docket.

The undersigned counsel of record in the above-captioned action hereby consent, on behalf of their respective clients, to the entry of the foregoing Consent Decree:

FOR PLAINTIFF:

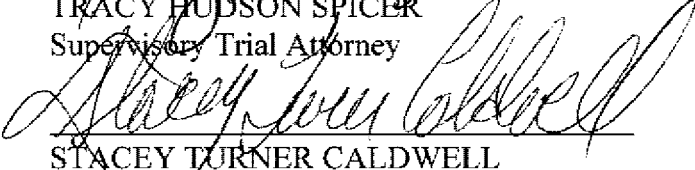
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JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel


GERALD S. KIEL
Regional Attorney


TRACY HUDSON SPICER
Supervisory Trial Attorney


STACEY TURNER CALDWELL
Senior Trial Attorney
Counsel for Plaintiff, Equal Employment Opportunity
Commission

SO ORDERED THIS 1st DAY OF June, 2004.

FOR DEFENDANT:


LYNN F. JACOB
LORIE N. HELMUTH
Williams Mullen, P.C.
Counsel for Defendant, Quality Foods
Cooperative, Inc.


United States District Court Judge



EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE TO QUALITY FOODS EMPLOYEES

This Notice is being posted pursuant to an agreement entered between the Equal Employment Opportunity Commission (EEOC) and Quality Foods Cooperative, Inc. to inform employees of their rights under the Americans with Disabilities Act of 1990, as amended, and other laws enforced by the EEOC.

The Americans with Disabilities Act (ADA) prohibits employment discrimination on the basis of disability.

The ADA states that it shall be an unlawful practice for an employer to discriminate against any qualified individual with a disability because of that individual's disability in regard to job application procedures, hiring, advancement, discharge, compensation, training, and other terms, conditions, and privileges of employment.

The term discriminate includes:

(a) failure to make a reasonable accommodation to a known physical or mental limitation of an otherwise qualified individual with a disability who is an applicant or employee; and

(b) denying employment

opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, where the denial is based on the need of an employer to make a reasonable accommodation to the physical or mental impairments of the employee or applicant.

A reasonable accommodation includes but is not limited to:

(i) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

(ii) job restructuring, providing part-time or modified work schedule, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, or the provision of qualified readers or interpreters.

In addition to the ADA, the EEOC is responsible for enforcing three other federal anti-discrimination statutes:

Title VII of the Civil Rights Act of 1964, as amended, prohibits employment discrimination based on sex, race, color, national origin, or religion and prohibits an employer from retaliating against any employee or applicant for opposition to discriminatory employment practices or for having participated in any manner in an investigation, proceeding, or

hearing concerning unlawful discrimination under the Act.

The Equal Pay Act of 1963, as amended, which prohibits wage discrimination on the basis of sex;

The Age Discrimination in Employment Act of 1967, as amended, which prohibits discrimination based upon age for persons 40 years of age and older.

If you have a complaint of employment discrimination or questions regarding laws prohibiting employment discrimination, you may seek assistance from the Equal Employment Opportunity Commission. Office locations and general information may be obtained on the Internet at www.eeoc.gov or by calling 1-800-669-4000 (TDD 1-800-669-6820).

Quality Foods Cooperative, Inc. pledges its commitment to compliance with all federal laws prohibiting employment discrimination.

Date Posted:
By:

(Representative) (Title)