

**EQUAL OPPORTUNITIES COMMISSION  
CITY OF MADISON  
210 MARTIN LUTHER KING, JR. BOULEVARD  
MADISON, WISCONSIN**

Stuart Settle  
P.O. Box 7581  
Madison, WI 53705

Complainant

vs.

Harbor Residential Services, Inc.  
802 Harbor House Drive  
Madison, WI 53719

Respondent

COMMISSION'S DECISION AND  
FINAL ORDER ON HEARING  
EXAMINER'S FINDING OF NO  
PROBABLE CAUSE

Case No. 1633

**BACKGROUND**

On June 14, 1994, the Complainant, Stuart Settle, filed a complaint of discrimination with the Madison Equal Opportunities Commission (MEOC or Commission). In his complaint, the Complainant alleged that the Respondent, Harbor Residential Services, Inc., subjected him to more stringent discipline than those not of his race leading to his involuntary termination of his tenancy in violation of the ordinance. The complaint was assigned to a Commission Investigator/Conciliator. Subsequent to an investigation of the allegations of the complaint, the Investigator/Conciliator, on March 13, 1995, issued an Initial Determination concluding that there was no probable cause to believe that the Respondent had discriminated against the Complainant on the basis of his race with regard to his tenancy.

The Complainant timely appealed the Initial Determination. The complaint was assigned to the Hearing Examiner for review of the file. The Hearing Examiner provided the parties with the opportunity to conduct discovery and to submit additional evidence or argument. On August 8, 1995, the Hearing Examiner issued a Decision and Order on Review of Initial Determination. The Hearing Examiner concluded that there was no probable cause to believe that the Respondent had discriminated against the Complainant on the basis of his race in the terms and conditions of his tenancy or in the termination of his tenancy. The Complainant timely appealed the Hearing Examiner's decision to the Commission. The Commission issued a Notice of Appeal and Briefing Schedule on August 24, 1995. On December 14, 1995, the Commission met to deliberate the Complainant's appeal. Participating in the Commission's deliberations were Commissioners: Anderson, Fieber, Greenberg, Miller, Munoz, Washington and Zipperer.

**DECISION**

The essence of the Complainant's complaint is that the Respondent or its agents treated him unfairly by refusing to meet with him, by refusing to work out payment terms and ultimately by using a

Notice to Terminate his tenancy that does not appear to meet the requirements of state law. The Respondent's position is that it treated the Complainant no different from any other tenant and that it specifically did not discriminate against the Complainant on any basis.

In order to demonstrate that there is probable cause to believe that discrimination is likely to have occurred, the Complainant must present or point to facts sufficient in themselves to establish a prima facie case of discrimination. This places the burden on the Complainant to place in the record facts or information sufficient to show that each element necessary to a prima facie case can eventually be proven. The standard statement of the prima facie elements of a housing discrimination case are: 1) the Complainant is a member of a protected class; 2) The Complainant was a qualified renter; 3) The Complainant suffered some adverse action; 4) the adverse action occurred, at least in part, because of the Complainant's membership in the protected class.

There is apparently no question that the Complainant, an African American, is a member of the protected class "race." There does not appear to be a question that the Complainant was a qualified tenant at least up to the point that his roommate moved out. Once the Complainant's roommate moved and the Complainant was no longer able to pay the full amount of the rent, he was no longer a qualified tenant. However, this does not really affect the primary allegations of the Complainant.

The Complainant's allegations that he suffered an adverse action due to the Respondent's treatment of him prior to the termination of his tenancy, if true, would represent an adverse action. Certainly, the termination of the Complainant's tenancy constitutes an adverse action. The major problem with the Complainant's claim is the final element of the prima facie case, that of causation. He does not present any evidence or point to any information that might lead a reasonable person to the conclusion that his treatment stemmed from the fact that he is an African American. The record convincingly indicates that to the extent that the Respondent treated the Complainant rudely, it treated all tenants equally rudely. Similarly, even if the notice terminating the Complainant's tenancy were illegal the same notice was used uniformly by the Respondent. In other words, the Respondent seems to have used the same "5 day Notice" with respect to persons not in the Complainant's protected class as it used to terminate the Complainant's tenancy. The probable impropriety of the notice by itself does not demonstrate either discrimination or pretext, where the record shows that the notice was used for all terminations.

In short, the Complainant has failed to present evidence or to point to facts in the record that tend to prove that the adverse actions of which he complains were directed at him because of his race. Failing in this demonstration, the Complainant's complaint must be dismissed.

The Commission also takes this opportunity to warn the Respondent that use of notices that do not conform to the requirements of state or local law often are used as a mechanism for discrimination. The Respondent should review its notices and procedures to assure that they fully comply with the spirit and the letter of law. The Commission's decision in this matter is compelled by the facts in this particular case. The Respondent should bear in mind that other facts may well result in a different outcome.

Commission's Decision and Final Order on  
Hearing Examiner's Finding of No Probable Cause  
Case No. 1633  
Page 3

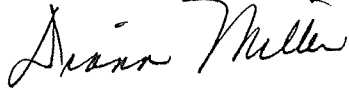
ORDER

The complaint is hereby dismissed without costs to either party.

Joining in the Commission's decision are Commissioners Anderson, Fieber, Greenberg, Miller, Munoz, Washington and Zipperer.

Signed and dated this 3<sup>rd</sup> day of January, 19 96.

MADISON EQUAL OPPORTUNITIES COMMISSION



Diana Miller  
President