

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

Alexis L. Noble
6541 South Woodlawn Avenue
Chicago, Illinois 60637

Complainant

v.

Christianson Ventures, LLC
401 Wisconsin Avenue
Madison, Wisconsin 53703

Respondent

**HEARING EXAMINER'S RECOMMENDED
FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER**

MEOD CASE NO. 2022-0159

On June 20 and 21, 2023 Hearing Examiner Clifford E. Blackwell, III, held a public hearing on the merits of the complaint in Room 206 of the Madison Municipal Building, 215 Martin Luther King, Jr. Boulevard. The Complainant, Alexis Noble, appeared in person and by her attorney, Joseph Humphrey. The Respondent, Christianson Ventures, LLC, appeared in person by its representative, Karen Christianson, and by its attorney, Leslie Freehill.

Based upon the record at hearing and as otherwise presented to the Hearing Examiner, the Hearing Examiner now enters his Recommended Findings of Fact, Conclusions of Law and Order:

RECOMMENDED FINDINGS OF FACT

1. The Complainant, Alexis Noble is a Black, African American female. She is married to Rajah Noble, a Black, African American male.
2. The Respondent, Christianson Ventures, LLC, is in the business of renting apartments in the Madison area including one at 512 West Wilson Street in the City of Madison.
3. On or about March 31, 2021, the Complainant entered into a lease with the Respondent for a studio apartment identified as Unit 110 at 512 West Wilson Street. Occupancy of the apartment was to begin on June 1, 2021, and terminate on May 31, 2022.
4. The Complainant's tenancy was relatively conflict free until December 2021. During these beginning months, the Complainant had minor issues and complaints about noise, repairs and issues related to the laundry room. None of these issues created any degree of conflict between the Complainant and the Respondent. During the period of the Complainant's tenancy, the Respondent's Property Manager was Kelly Kasper. Kasper is a white female.

5. When the Complainant had an issue during her tenancy, she contacted Kasper. Nothing indicates that there were any ill feelings between the Complainant and Kasper.
6. On or about December 8, 2021, the Complainant informed Kasper via text that she would have to rehouse her pet dog because the dog barked incessantly due to noise in the hallway and from the staircase outside the Complainant's apartment. The Complainant also indicated that the noise from the hallway and staircase was a constant irritant to her and that if she renewed her lease, she would want to move to another apartment to be away from the noise.
7. On or about December 20, 2021, the Complainant informed Kasper that the Complainant's dog had been rehoused. Kasper replied to the Complainant indicating that the additional rent for the pet was no longer due.
8. On or about February 9, 2022, the Complainant inquired of Kasper whether there were or would be any one bedroom or larger studio apartments available. The Complainant further indicated that if none were available or would be available in the near future, the Complainant and her husband would remain in their current unit, 110. Kasper replied that she would start finding out which tenants intended to stay at the end of their leases, and she'd have a better idea of what might be available.
9. On or about March 14, 2022, Kasper informed the Complainant that the tenants in a one-bedroom unit on the third floor might be interested in switching apartments with the Nobles and offered to set up a showing for the Complainant.
10. Later on March 14, 2022, Kasper and her husband, Brian Kasper, the Respondent's Maintenance Manager, showed the Complainant's apartment to the tenant who was considering switching units with the Complainant.
11. The tenant from the one-bedroom apartment later decided not to switch apartments as the Complainant's unit was smaller than was desired.
12. While showing the Complainant's apartment on March 14, 2022, Brian Kasper became aware of water damage to the wall and flooring of Unit 110. He told his wife of the need to make substantial repairs to Unit 110 to repair the water damage and indicated that the unit would have to be vacant in order to make the necessary repairs.
13. On March 21, 2022, Kasper told the Complainant that the tenant who might have wished to switch units was not interested, and that the apartment on the third floor was not available. At the same time, Kasper offered the Complainant a two-bedroom apartment as of June 1, 2022 in another Christianson Ventures building. After considering the possibility of the two-bedroom unit, the Complainant informed Kasper that the timing was poor as she'd need to move in late April or early May to be ready on June 1, 2022.
14. Also on March 21, 2022, Kasper informed Karen Christianson of the need for repairs to Unit 110 and the need for the unit to be vacant. Subsequent to Christianson's decision not to renew the lease on Unit 110 so that repairs could be made, Kasper informed Christianson about her mistaken belief that the Complainant had wished to move from the apartment and that in Kasper's opinion, the Complainant was unhappy with the unit.

15. Whether Christianson knew of the Complainant's race and/or color at the time of her decision not to renew the Complainant's lease is not clear. However, Christianson was aware that repairs were necessary, and that the unit needed to be vacant in order to effectuate the repairs.
16. Kasper informed the Complainant later on March 21, 2022, that her lease was not going to be renewed. Kasper did not inform the Complainant of the reason for the nonrenewal or the need for repairs to the unit.
17. When informing the Complainant of the nonrenewal of the lease, Kasper once again offered the Complainant a lease for a larger unit in a different building. The Complainant again declined the offer based on her need to be settled prior to June 1, 2022.
18. On or about March 24, 2022, Kasper informed the Complainant that the other larger unit she had mentioned earlier was no longer available. The current tenant had decided to remain in the unit. Kasper once again offered to let the Complainant out of her lease early so that she could be settled somewhere before the June 1 date the Complainant had stated previously. Kasper also offered to help the Complainant find another place.
19. Subsequent to Kasper's message to the Complainant on March 24, 2022, the Complainant indicated to Kasper that she had decided to return to Chicago. The Complainant informed Kasper that the Complainant would let Kasper know when she planned to be out of the apartment.
20. On or about May 20, 2022, the Complainant informed Kasper that she would vacate the apartment on May 28, 2022.
21. The Complainant believed that she and her husband were the only black tenants living at 512 West Wilson Street. However, there were three other black, African American tenants, Burton, Dupaty and Redus also living at 512 West Wilson Street at the time of the Complainant's tenancy. Redus had been a tenant at that address for four years at the time of the Complainant's tenancy.
22. Burton, Dupaty and Redus were all renewed as tenants at 512 West Wilson Street. Burton opted to move elsewhere, but Dupaty and Redus renewed their leases at 512 West Wilson Street. Redus moved from a studio apartment to a one-bedroom apartment as she had reached the top of the waiting list for one-bedroom apartments at 512 West Wilson Street.
23. Brian Kasper and his son, Aaron Kasper, performed the repairs to the Complainant's former unit beginning on June 1, 2022 and completed the work on or before June 15, 2022. After which the unit was rented to Anna Brink, a white female.

CONCLUSIONS OF LAW

1. The Complainant is a member of the protected classes of race and color within the meaning of the City of Madison Equal Opportunities Ordinance.
2. The Respondent is a landlord or owner of rental property within the City of Madison and is subject to the jurisdiction of the Department of Civil Rights and is subject to the provisions of the City of Madison Equal Opportunities Ordinance.

3. The Respondent did not violate the terms of the City of Madison Equal Opportunities Ordinance when it did not renew the Complainant's lease at 512 West Wilson Street.

ORDER

1. The complaint is dismissed.
2. The parties shall bear their own costs.

MEMORANDUM DECISION

This is a claim of discrimination in housing on the bases of race and color. The Complainant is Alexis Noble (Complainant). Ms. Noble is a Black, African American woman. She is married to Rajah Noble, a Black, African American man. The Respondent is Christianson Ventures, LLC (Respondent). The Respondent owns and manages approximately 80 housing units in Madison, including the apartment building at 512 West Wilson Street.

The Complainant alleges that the Respondent discriminated against her and her husband on the bases of race and color when it did not renew their lease effective May 31, 2022. Customarily, cases in which both race and color are alleged, courts have analyzed such cases as one of discrimination on the basis of race. Claims of discrimination on the basis of color, primarily, are based upon differences in skin coloration within a specific race such as a claim that one is treated less favorably because their skin color is darker than someone else in the same racial group. This does not appear to be part of the allegations of this complaint. In the present matter the issue of color is presented as the difference in skin color between someone who is black and someone who is white. Accordingly, the Hearing Examiner will fold the claim of discrimination on the basis of color into the claim of discrimination on the basis of race. Should facts in the record require a separate discussion of skin tones, the Hearing Examiner will separate the claims at that point.

Complaints of discrimination may be proven by either the direct method or the indirect method. In the direct method of proof, the record will contain clear evidence of a racial animus such as racially explicit language or the posting of racially offensive pictures, cartoons or symbols. Statements offered as direct evidence of discriminatory intent must illustrate discriminatory bias beyond the need for inference. Peterson v. Madison Metropolitan School District MEOC Case No. 22728 (Ex. Dec. 11/16/01). Both parties agree that this case is not one that can be tried as one of direct proof.

In the case of a claim of discrimination being proven by the indirect method, the record will contain a variety of facts, statements and other evidence from which one may infer that a discriminatory animus motivated a Respondent. The cases as presented through investigation and at hearing fit the indirect method of proof.

The indirect method of demonstrating discrimination is also known as the burden shifting approach and derives from McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973) and Texas Dept. of Community Affairs v. Burdine, 450 U.S. 248 (1981) and the cases that follow those decisions. Under this burden shifting approach, the Complainant must provide evidence sufficient to establish a *prima facie* claim of discrimination. The burden of proof to demonstrate

discrimination always lies with the Complainant. It is not the Respondent's burden to demonstrate that it did not discriminate against the Complainant.

If the Complainant presents sufficient evidence to make out a *prima facie* claim of discrimination, the burden then shifts to the Respondent to produce a legitimate, nondiscriminatory explanation for its actions. This is a burden of production, not one of proof. Should the Respondent meet its burden, it acts to counter any inference of discrimination presented initially by the Complainant.

Once the Respondent has produced a legitimate, nondiscriminatory explanation for its actions, the Complainant may still prevail if the Complainant can demonstrate that the Respondent's proffered explanation is either not credible or represents an otherwise discriminatory motive. Should the Complainant meet this burden, the Complainant will succeed in demonstrating discrimination.

Evidence in a claim of discrimination must meet the standard of the greater weight of the credible evidence, also known as by the preponderance of the evidence. This is the same level of proof required in most civil actions.

In order to establish a *prima facie* claim of discrimination, the Complainant must produce evidence sufficient to prove each element of a *prima facie* claim. For the present matter, the *prima facie* elements can be summarized as: 1) The Complainant is a member of one or more protected classes; 2) The Complainant experienced an adverse action and 3) There is a causal link between the Complainant's protected class or classes and the adverse event. The *prima facie* elements may differ for other types of claims of discrimination.

On this record, there is no doubt that the Complainant has produced sufficient evidence to satisfy the first two elements of the *prima facie* claim. The Complainant is a Black, African American woman who interacted directly with Kelly Kasper, the Respondent's rental manager/agent for the property at 512 West Wilson Street, the building at which the Complainant rented an apartment. Kasper is white. The lease application required the Complainant to produce a photographic identification which she did. The identification was made part of the Complainant's rental file. Though there is a dispute in the record as to whether Karen Christianson, who is white, knew of the Complainant's race or color for purposes of the *prima facie* claim, it is sufficient to hold that the Respondent, by virtue of Kasper's interactions with the Complainant and the presence of the Complainant's photographic identification in the rental file, demonstrate that the Complainant is a member of the protected classes race and color. It is also clear that the Respondent knew of the Complainant's protected classes.

There is no doubt that not having one's lease renewed is an adverse action where one wished to remain at a given property. The testimony at hearing and the exhibits presented at that time both demonstrate that the Complainant wanted to renew the lease if another larger apartment was not available. This desire was demonstrated in a text message on February 9, 2022, from the Complainant to Kasper. At this stage of analysis, the record supports the Complainant's assertion that she wished to remain in the apartment or at least at the property at 512 West Wilson Street. The Complainant was pregnant with a due date close to the end of the lease. The apartment was conveniently located to work for the Complainant as well as being in walking distance to her physician. The Complainant's husband had just started a new job and wished to remain at 512 West Wilson Street. While the Hearing Examiner will later address the Respondent's contention that it believed that the Complainant did not wish to renew her lease, for

purposes of the *prima facie* claim analysis, the Complainant has met her burden to establish the second element of the *prima facie* claim.

We now turn to the third and most difficult element; that of demonstrating the existence of a causal link between the Complainant's protected class or classes and the adverse action. It is not necessary that the Complainant show that such a link is the sole factor motivating the adverse action, but that it be some factor motivating the adverse action. In this regard, it is not sufficient for the Complainant to believe that such a causal link exists or that the basis of a link rests on the fact that the Complainant is a member of a protected class while the Respondent is not a member of the same protected class. The Complainant must show by evidence or inference that the Complainant's protected class or classes played some motivating role in the adverse action.

Proof of such motivation may be demonstrated in various ways. One can point to a difference in treatment of other similarly situated individuals not of the Complainant's protected class or classes. One may seek to infer that differing explanations for the Respondent's actions points to a discriminatory motive. If a lack of credibility of a Respondent's proffered explanation is demonstrated, it is possible to infer that discrimination is, at least in part, the true motive behind that Respondent's actions.

In the present matter, the Complainant points to a number of different factors that the Complainant contends can support an inference that discrimination occurred.

The Respondent asserts that the Complainant does not, in fact, present evidence of a discriminatory intent, but instead presents arguments to support a finding that the Respondent's proffered explanation is not credible or is otherwise a pretext for a discriminatory motive. While this may seem to be a distinction without much of a difference, it is important because of the Complainant's burden of proof to demonstrate discrimination.

The Complainant presents testimony and evidence in an attempt to demonstrate that she was treated less favorably than other tenants not of her race or color. At the bottom of this testimony and evidence is the Complainant's sincere belief that she and her husband were the only African American tenants at 512 West Wilson Street and that they received less favorable treatment than other tenants in a number of regards. While this approach is sound, the record lacks actual evidence to support this contention.

The Complainant asserts that when she reported a need for repairs to Kasper, Kasper did not respond to the Complainant's requests as promptly as to other tenants. Additionally, the Complainant states that when there were complaints of a barking dog, her dog was singled out as the cause of the noise. As a result of this treatment, the Complainant had to rehouse her pet with her sister. The Complainant also testified that when there were complaints about not moving clothes quickly enough in the laundry room, either she was blamed, or her complaints were ignored. The Complainant also asserts that other tenants not of her race or color were treated more favorably than the Complainant with respect to the opportunity to rent other apartments in the building.

The first problem with these arguments presented by the Complainant is that, in fact, the Complainant and her husband were not the only African American tenants of 512 West Wilson Street during the pertinent time period. The record reflects that there were three other African American tenants at 512 West Wilson Street. All three of these other African American tenants were offered renewal of their leases. One declined and the other two renewed their tenancies.

Additionally, the Complainant presented no credible evidence that the manner in which she asserts she was treated less favorably with respect to complaints was more than her personal belief. There was no testimony from other tenants attesting to their favorable treatment or to their observation of the Complainant's less favorable treatment. In order to prevail, the Complainant must lay a factual base from which inference may be drawn. It is not sufficient to rest on one's personal belief no matter how sincere.

At various points in her post-hearing briefs the Complainant points to other instances that she believes show a discriminatory intent on the part of the Respondent. In particular, the Complainant points to several apartment leases that were entered into for the period of June 1, 2022 or shortly thereafter. The Complainant specifically points to 3 apartments that became available in April 2022 that were ultimately rented to a Hispanic individual and white tenants. The Complainant also points to the eventual rental of her original apartment as of June 16, 2022, to a white tenant.

The problem with these arguments is the timeline. Once the Complainant was told on March 21, 2022 that her lease was not to be renewed so that repairs could be made to the apartment, the Complainant on March 21, 2022 texted Kasper that she needed to have her housing set earlier than June 1, 2022. Shortly after the March 21, 2022 text, the Complainant texted Kasper that she was relocating to Chicago. The leases that went to other individuals not of the Complainant's race or color became available after the Complainant's indication that she would be relocating. While it certainly would have been good business and a gesture of good faith to ask if the Complainant might be interested in one or more of those availabilities, it was not required, and the lack of an outreach to the Complainant is understandable given the Complainant's late March text indicating her move to Chicago. Additionally, the Complainant's argument that other units were available during the summer of 2022, or became available, does nothing to further the Complainant's case given her requirement that she needed to have her housing set prior to June 1, 2022, and the indication she would relocate to Chicago. It is not clear what the Complainant might have been able to do for housing given the scheduled repairs to her unit which began at the beginning of June. The unit was not habitable, and the Complainant would have been homeless for the period of the repairs. Perhaps it might have been possible to negotiate for an extension to her lease and a postponement of the repairs, but the record does not indicate that this was requested by the Complainant or offered by the Respondent. Nothing in the record indicates that the Respondent's failure to offer this accommodation was a result of any discriminatory motive.

The Complainant presents additional facts from which she wishes the Hearing Examiner to infer a discriminatory motive on the part of the Respondent. The Complainant contends that the testimony indicating that the Respondent's explanation for the nonrenewal of the Complainant's lease, i.e., that the apartment needed repairs that could not be accomplished while someone was in residence, and that the Complainant appeared unhappy in the apartment and had requested on several occasions to be allowed to move early, were contradictory and were simply untrue. The record is clear that the Complainant never requested to move out early or wished relief from her lease prior to its scheduled termination. That The Complainant may have been unhappy in Unit 110 and wished another unit is clearer. In December 2021, the Complainant complained to Kasper of the noise in the stairwell right outside Unit 110's door. The Complainant requested to be moved to a different unit should one become available. After this communication, Kasper sought to assist the Complainant in finding another unit that would better fit the Complainant's wishes. This included attempting to facilitate a switch with another tenant in a one-

bedroom unit on the third floor. That switch ultimately did not work out when the other tenant decided to remain in the one-bedroom unit.

The Complainant's efforts at hearing to create an additional claim of discrimination based upon the Respondent's alleged failure to offer the Complainant other rental units subsequent to the March 21, 2022 decision not to renew the Complainant's lease cannot be recognized by the Hearing Examiner. The Complainant might have sought to amend the Notice of Hearing at an earlier stage but did not. To permit the introduction of a new basis or claim of discrimination at the time of hearing would deprive the Respondent of its right to due process. Notice of the claims against one is a fundamental part of one's due process rights. With adequate notice, a party is given the time and opportunity to prepare a defense. This would not be the case in the current circumstances.

The Complainant asserts that the Respondent would not need to present any additional evidence to rebut the proposed new claim. The Hearing Examiner is not convinced that this is as possible as the Complainant asserts. In its reply brief, the Respondent demonstrates the difficulties with the Complainant's effort to belatedly shoehorn a new claim into this matter. To the extent necessary, the Hearing Examiner denies the Complainant's request to amend the complaint to add a new claim relating to the allegation that the Respondent failed or refused to offer the Complainant leases for other units that became available after the Complainant was notified of the decision not to renew her lease.

The Complainant fails to establish a *prima facie* claim of discrimination on the basis of her race and/or color. The inferences that the Complainant wishes the Hearing Examiner would make are too tenuous and are not supported by facts in the record. The Complainant's effort to demonstrate that she was treated less favorably than other tenants not of her race rest, for the most part, on her and her husband's sincere beliefs that such less favorable treatment occurred. Such belief, no matter how strong, is insufficient to support an inference of discriminatory intent on the part of the Respondent.

The Complainant's argument that the Respondent's shifting explanation for the decision not to renew the Complainant's lease is not strong enough to create a meaningful inference of a discriminatory motive. Given this record, Kasper's belief that the Complainant was unhappy in Unit 110 has some support in the record given the Complainant's complaint about the noise in the stairwell and the admitted desire to seek a larger apartment when the opportunity for a switch with other tenants came about. That ultimately the need to conduct water damage repairs in a vacant apartment, where the Complainant did not have a situation that would let her move back into the repaired unit, supports the Respondent's explanation for its decision.

The Complainant's argument that Kasper acted as a "gatekeeper" in making the nonrenewal decision ahead of reporting that to Karen Christianson is not credible given the record. In order for this theory to be effective, one must determine that Kasper harbored some racial animus towards the Complainant. There is nothing in the record to support such a finding or even to raise an inference that such animus existed. It is clear to the Hearing Examiner that Kasper's decision to recommend nonrenewal of the Complainant was based primarily on the need for repairs to Unit 110, and secondarily on her mistaken belief in the Complainant's unhappiness with the unit. Kasper's mistaken belief does not form any basis for finding that she harbored any racial animus towards the Complainant.

Even if the Complainant had provided sufficient evidence to establish a *prima facie* claim of discrimination, it would not end the analysis of the record. Assuming the Complainant had made out a *prima facie* claim, the burden would shift to the Respondent to proffer a legitimate, nondiscriminatory explanation for the decision not to renew the Complainant's lease.

The Respondent's explanation that it needed a vacant unit in order to make repairs to Unit 110 represents such an explanation. That the Respondent may not have conveyed this reason for the decision not to renew the Complainant's lease is irrelevant to the legitimacy of the explanation. The record indicates that the work was needed and that it was accomplished in a faster time frame than originally projected. Even with the faster turnaround, the Complainant would still have needed to be out of the unit. There is nothing in the record to indicate that the Complainant could make alternative arrangements to be out of the unit during the period of the repairs even if she could have moved back in. It certainly would have been a sign of concern for a tenant had the Respondent inquired of the Complainant whether some temporary leaving arrangement might be possible. However, given the Complainant's need to have her housing set up by the end of late April or early May, the lack of inquiry may be excusable.

The Respondent's "secondary" explanation of unhappiness on the part of the Complainant with Unit 110, albeit mistaken, also represents a legitimate, nondiscriminatory explanation for the Respondent's actions. It seems clear to the Hearing Examiner that there were significant problems with the level of discussion between the Complainant and Kasper. However, there is nothing in the record that permits the Hearing Examiner to find that racial animus played any role in that lack of effective communication.

The Respondent also points to three other African American tenants who were offered the opportunity to renew their leases, and two of them accepted and signed leases for terms after the Complainant's lease term would have ended. The third African American tenant opted to move elsewhere and did not renew their lease. This certainly represents a legitimate, nondiscriminatory explanation that the Respondent was not motivated by the Complainant's race when failing to renew her lease.

Again, assuming that the Respondent successfully rebuts the Complainant *prima facie* claim of discrimination, the Complainant might still prevail if she points to evidence indicating that the Respondent's explanations are not credible or represent a pretext for an otherwise discriminatory motive. With respect to the need to make repairs to the unit, and for the unit to be vacant during those repairs, there is nothing in the record to indicate that there is a lack of credibility with respect to this explanation. The Complainant argues that the evidence that the Respondent renewed or offer to renew the leases of other African American tenants is not credible because those leases were all entered into subsequent to the Complainant's filing of the complaint in this matter. While such an argument might create some doubt about the credibility of the Respondent's actions, it fails to recognize that tenant Redus had been a tenant at the 512 West Wilson Street building for a number of years before the Complainant first moved into the building. The length of Redus' tenancy undercuts the Complainant's contention that her lease was renewed to disguise a discriminatory motive.

While the Complainant's assertions about the shifting nature of the Respondent's explanations carries some weight, there is nothing in the record that leads the Hearing Examiner to find that Kasper's mistaken belief in the unhappiness of the Complainant lacks credibility or represents a pretext for another discriminatory motive.

In the end, the Hearing Examiner finds that the Complainant has failed to carry her burden to prove that the decision on the part of the Respondent suffered from any taint of discrimination. While the Complainant's life experiences may have created in her a willingness to believe that the Respondent acted in a discriminatory manner, the record lacks sufficient evidence to verify her belief. The complaint is dismissed.

Signed and dated this 9th day of April 2025.

EQUAL OPPORTUNITIES COMMISSION

A handwritten signature in black ink, appearing to read "Clifford E. Blackwell, III", with a stylized flourish at the end.

Clifford E. Blackwell, III
Hearing Examiner

cc: Attorney Joseph Humphrey
Attorney Leslie Freehill