

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

BONNIE M. JACOBY and :
CELMAR L. EATON, :
Complainants :

DOCKET NO. H-1582

vs. :

ROBERT V. WIGGINS and :
HELEN J. WIGGINS, :
Respondents :

FINDINGS OF FACT, CONCLUSIONS
OF LAW, COMMISSION'S DECISION
AND FINAL ORDER

FINDINGS OF FACT

1. The Complainants herein are Bonnie M. Jacoby and Celmar L. Eaton, both of whom reside at 227 East Clay Street, Lancaster, Pennsylvania.

2. Complainant Bonnie M. Jacoby is a white female adult.

3. Complainant Celmar L. Eaton is a black female adult.

4. Respondents Robert V. Wiggins and Helen J. Wiggins own a four-unit apartment complex located at 227 East Clay Street, Lancaster, Pennsylvania.

5. On July 7, 1971, Complainant Bonnie M. Jacoby met with Respondent Helen J. Wiggins, at which time they entered into an agreement for the rental of the third floor apartment at 227 East Clay Street, Lancaster, Pennsylvania at a rental fee of \$75.00 per month.

6. At the meeting of July 7, 1971, Respondent Helen J. Wiggins agreed that it would be permissible for a roommate to

live in the aforesaid apartment with Complainant Jacoby, despite the fact that said Respondent had not met the roommate in question.

7. On July 14, 1971, Complainants began moving their belongings into the third floor apartment at 227 East Clay Street, Lancaster, Pennsylvania, at which time they met with Respondent Helen J. Wiggins at said apartment.

8. Said meeting of July 14, 1971, was the first occasion which said Respondent had to meet Complainant Jacoby's roommate, Celmar L. Eaton, and to observe her race, Black.

9. Pursuant to discussions between the Complainants and Respondent Helen J. Wiggins, it was understood that the Complainants would occupy the aforesaid premises for a minimum of one year, with the terms of the rental agreement to be reduced to writing and delivered to the Complainants at some time during the week of July 19, 1971.

10. On July 14, 1971, Complainant Jacoby paid to Respondent Helen J. Wiggins the sum of \$20.00 as security or damage deposit.

11. An earlier payment of \$37.50 had been paid to Respondent Helen J. Wiggins by Complainant Jacoby on July 7, 1971, as rental payment for the latter half of the month of July.

12. The only restriction upon the lease agreement of which Respondent Helen J. Wiggins gave the Complainants notice, was the fact that no pets would be allowed in the premises.

13. Early in the morning of July 28, 1971, Complainant Jacoby answered a loud knock at her door and was served with a notice to vacate the premises, by an unidentified man and Respondent Helen J. Wiggins. Said notice stated that Complainant

Jacoby was to vacate said premises on August 31, 1971.

14. The circumstances surrounding the service of the letter of July 28, 1971, were frightening to Complainant Jacoby.

15. The effect of said letter of eviction was to produce humiliation, embarrassment, and fear in the minds of the Complainants.

16. Respondent Helen J. Wiggins informed the Complainants during the beginning of August, 1971, that she desired to have the Complainants vacate the apartment in question because she needed said apartment for the use of her pregnant daughter.

17. Despite this statement, and an identical statement made at a later time to a Field Representative of the Pennsylvania Human Relations Commission, Mrs. Wiggins refused to provide the name and/or address of her alleged daughter.

18. In addition, at some time between July 28 and August 5, 1971, an advertisement appeared in either the Lancaster New Era or the Intelligencer Journal for the rental of the third floor apartment at 227 East Clay Street, that which was then being occupied by the Complainants.

19. H. Clay Burkholder, Esquire, attorney for the Respondents, further stated to the Commission's investigator, that he had no knowledge of Mrs. Wiggins' daughter, but that he was informed that the Complainants had caused excessive noise and disturbance in the premises.

20. Within the week following the service of the July 28, 1971, notice of eviction, an apartment became vacant on the second floor of the premises at 227 East Clay Street.

21. Despite the Complainants' offer to move from their apartment to the vacant second floor apartment, Respondent Helen J. Wiggins refused and reaffirmed that they must vacate the premises.

22. The building at 227 East Clay Street, Lancaster, Pennsylvania, is an old one, with a heavy pressurized front door and wooden stairs within the building, all of which cause persons entering or leaving the building and using the interior stairs to make some amount of noise, despite precautions to prevent a disturbance.

23. Mrs. Dorothy Pennel, who resided in the second floor apartment directly below that of the Complainants, was not aware of any noise or disturbance caused by the Plaintiffs, and had no occasion to register any complaints against them.

24. Frances A. Ditzler, who resided in the second floor rear apartment at 227 East Clay Street as of August 15, 1971, had registered no complaints with the Respondents regarding noise or disturbance, and was only aware of the usual noise caused by persons ascending and descending the stairway. She was not aware of the identity of any persons who had even caused that noise.

25. A Mrs. Beats, who resided in the first floor apartment at 227 East Clay Street, felt that there was excessive noise at the time the Complainants had moved their belongings into the building, but also admitted, as did all other tenants of the building, that the old wooden steps which contained no carpeting were very creaky.

26. The Complainants were aware of excessive noise caused by a barking pet dog and a loud television and radio which emanated from Mrs. Beats' apartment on the first floor.

27. If the Respondents attempted to evict the Complainants because they were excessively noisy in the premises, Respondents have failed to apply the same criteria for eviction to the first floor tenant, Mrs. Beats, who also owned a pet dog in violation of the Respondents' prohibition against pets in the building.

28. Complainant Jacoby was served with a Landlord and Tenant Complaint dated August 13, 1971, alleging nonpayment of the rent that was due for the month of August in the amount of \$75.00.

29. The failure of the Complainants to pay the August rental fee of \$75.00 was due to the confusion experienced by the Complainants upon receipt of the July 28, 1971 notice of eviction, and uncertainty as to their legal obligations to the Respondents.

30. Had not the notice of eviction of July 28, 1971, been issued to Complainant Bonnie M. Jacoby, the Complainants would not have failed to make the August rental payment, and would not have been required to appear at a court hearing and to pay \$18.50 (eighteen dollars and fifty cents) in court costs.

31. Complainant Jacoby gave a check in the amount of \$18.50, and payable to John K. Shenk, Justice of the Peace, to Mr. Shenk's secretary, as payment in full for said court costs.

32. A second Landlord and Tenant Complaint, dated September 16, 1971, was filed against Complainant Jacoby by Respondent Helen Wiggins, requesting possession of Complainant Jacoby's apartment due to the notice of removal which was served upon said Complainant.

33. Complainant Jacoby was required to attend a second hearing pursuant to the Landlord and Tenant Complaint of September 16, 1971.

34. Had not the aforesaid notice of eviction dated July 28, 1971, been issued and served upon Complainant Jacoby, she would not have been required to attend the aforesaid hearing before Justice Shenk on October 6, 1971.

35. In an attempt to adjust the allegations of discrimination contained in the Complaint which Bonnie M. Jacoby filed with the Pennsylvania Human Relations Commission, the original Complaint in this matter having been filed by Complainant Bonnie M. Jacoby alone, the Respondents offered to rent the apartment in question to Complainant Eaton alone.

36. Pursuant thereto, Respondents submitted a written lease to the Pennsylvania Human Relations Commission, which lease contained a covenant that Complainant Eaton will at no time invite or have Bonnie M. Jacoby in or about the demised premises.

37. Due to the notice of eviction which was served upon Complainant Jacoby, and the two Landlord and Tenant Complaints which were filed against said Complainant, both Complainants suffered extreme embarrassment, humiliation, fear, and anxiety, all of which were manifested in increased nervousness, insomnia, and increased smoking on the part of Complainant Eaton.

38. The aforementioned emotional stress upon the Complainants was apparent at the Public Hearing in this matter through the nature and content of the Complainants' testimony and their composure while testifying.

39. Respondents also own a property known as 422 North Queen Street, Lancaster, Pennsylvania, which, for a time in the past, was rented by Respondent Helen J. Wiggins to some "roomers."

CONCLUSIONS OF LAW

Upon all the evidence at the Public Hearing held in the City of Lancaster, Pennsylvania, on October 21, 1971, and upon the foregoing Findings of Fact, the Pennsylvania Human Relations Commission makes the following Conclusions of Law:

1. The Complaint in this matter was properly filed by Bonnie M. Jacoby, and properly amended to include Celmar L. Eaton at the time of the Public Hearing in this matter, according to the Pennsylvania Human Relations Act.

2. At all times mentioned herein, the Pennsylvania Human Relations Commission had jurisdiction over the Respondents and the subject matter of the Complaint.

3. At all times mentioned herein, the property at 227 East Clay Street, Lancaster, Pennsylvania, constituted "commercial housing" as defined by Section 4(j) of the Pennsylvania Human Relations Act.

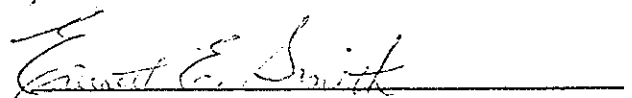
4. The issuance of a notice of eviction to Complainant Bonnie M. Jacoby, and the subsequent attempts to legally effectuate said eviction, constituted a refusal to lease, and a denial and withholding of the premises in question from said Complainant because of the race of said Complainant's roommate, Celmar L. Eaton, an occupant or user of said commercial housing. Said actions constituted an unlawful discriminatory practice in violation of Section 5(h)(1) of the Pennsylvania Human Relations Act.

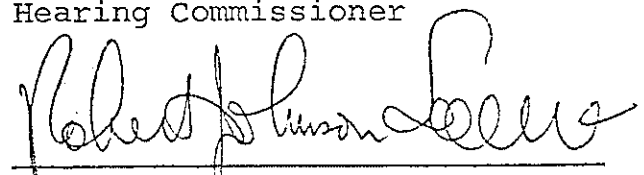
5. Said notice of eviction was intended to, and, if effectuated, would have caused a denial of said premises from Complainant Eaton because of her race, Black, by the Respondents. Said action constituted an unlawful discriminatory practice in violation of Section 5(h) (1) of the Pennsylvania Human Relations Act.

6. The offer of a lease to Complainant Eaton alone, by the Respondents, which lease contained a covenant prohibiting the invitation or presence of Bonnie M. Jacoby upon the premises, served to discriminate against Complainant Eaton in the terms or conditions of the leasing of said premises, and constituted an unlawful discriminatory practice in violation of Section 5(h) (3) of the Pennsylvania Human Relations Act.

The Hearing Commissioners therefore recommend that the Commission enter an Order against Respondents Helen J. Wiggins and Robert V. Wiggins, requiring them to compensate the Complainants, and to otherwise make them whole for the injuries that they have suffered as a result of the Respondents' unlawful discriminatory actions.


ANDREW G. FREEMAN
Presiding Commissioner


EVERETT E. SMITH
Hearing Commissioner


DR. ROBERT JOHNSON SMITH
Hearing Commissioner

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COMMISSION'S DECISION

AND NOW this 20th day of March, 1972, upon the recommendation of the Hearing Commissioners, and upon all the evidence at the Public Hearing of this case, and in consideration of the Findings of Fact and Conclusions of Law, the Pennsylvania Human Relations Commission finds and determines that Respondents Robert V. Wiggins and Helen J. Wiggins engaged in unlawful discriminatory practices in violation of Section 5, subsections (h) (1) and (3) of the Pennsylvania Human Relations Act of October 27, 1955, P.L. 744, as amended, in that Respondents refused to permit the Complainants to continue to reside in the third floor apartment, which had been rented to them only twelve (12) days earlier, by the Respondents, at 227 East Clay Street, Lancaster, Pennsylvania, because of the race of Complainant Celmar L. Eaton. The Respondents further engaged in an unlawful discriminatory practice by their offer to Complainant Eaton of a lease for the

rental of said third floor apartment which was different in the terms and conditions than those leases offered to other tenants in said premises, because of Complainant Eaton's race.

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FINAL ORDER

AND NOW this 20th day of March, 1972, upon consideration of the foregoing Findings of Fact, Conclusions of Law and Commission's Decision, and pursuant to the provisions of Section 9 of the Pennsylvania Human Relations Act, as amended, the Pennsylvania Human Relations Commission hereby

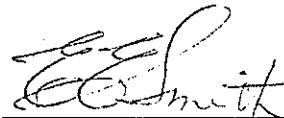
ORDERS as follows:

1. In light of the notification by Counsel for the Respondents that the premises at 227 East Clay Street, Lancaster, Pennsylvania, has been sold by the Respondents, an Order by the Commission regarding the Respondents' conduct of their business at that premises is now moot. The Respondents shall, however, cease and desist from all unlawful discriminatory practices with regard to the rental and sale of all real property which the Respondents own, operate or for which they act as agent, manager or broker, or in any manner furnish facilities or services in connection therewith.

2. The Respondents shall compensate the Plaintiffs in the amount of \$18.50 (eighteen dollars and fifty cents) for the court costs which Complainants were required to expend at the Landlord and Tenant Hearing held pursuant to the Landlord and Tenant Complaint of August 13, 1971.

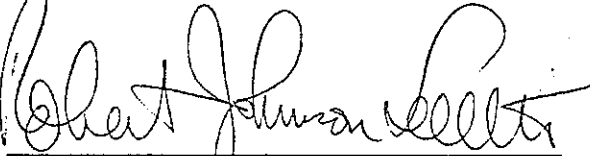
3. The Respondents will compensate each Complainant in the amount of \$450.00 (four hundred and fifty dollars) for the embarrassment, humiliation, pain and suffering, and mental anguish which the Complainants experienced as a result of the Respondents' unlawful discriminatory actions.

PENNSYLVANIA HUMAN RELATIONS
COMMISSION



E. E. SMITH, Chairman

ATTEST:



ROBERT JOHNSON SMITH
Secretary