



**Division of
Human Rights**

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF
HUMAN RIGHTS on the Complaint of

GEORGE GRAYDON,

Complainant,

v.

TOWN OF HEMPSTEAD, THERESA CARROLL-
KOHUTKA, PRESIDENT OF THE CIVIL SERVICES
EMPLOYEES ASSOCIATION, LOCLAL 880,

Respondents.

DETERMINATION AND
ORDER AFTER
INVESTIGATION

Case No.
10210558

Federal Charge No. 16GC100800

On 12/15/2020, George Graydon filed a verified complaint with the New York State Division of Human Rights ("Division") charging the above-named respondent with an unlawful discriminatory practice relating to employment because of race/color, opposed discrimination/retaliation in violation of N.Y. Exec. Law, art. 15 (Human Rights Law).

After investigation, and following opportunity for review of related information and evidence by the named parties, the Division has determined that there is **NO PROBABLE CAUSE** to believe that the respondents have engaged in or are engaging in the unlawful discriminatory practice complained of. This determination is based on the following:

The complainant, who is Black, is employed by the respondent as a Groundskeeper II. Complainant reports that on February 10, 2020, an incident took place at the Greenfield Cemetery with one of the employees, who complainant had to write up due to insubordination and physical assault of complainant. Two employees witnessed the matter and complainant asserts there is video evidence of the incident.

CSEA President Theresa Carroll-Kohutka ("Carroll-Kohutka") came to the cemetery after the incident, picked the employee up and drove him home. The write-up was submitted to Director Patricia Lima ("Lima"), who then submitted the documentation to the Town Attorney. Investigators from the Town Attorney's office came to the site to obtain written and verbal statements. However, no further action was taken in response to the physical assault against complainant's person.

Following this incident, Carroll-Kohutka began frequently visiting the cemetery, questioning the employees about whether complainant had ever mistreated them. One employee, who is autistic, was asked if complainant had ever put his hands on her, to which she replied no.

On June 8, 2020, complainant had a day off on which he went to visit a friend at a location adjacent to the CSEA office in Merrick, NY. While there, complainant saw John Flanagan, Jr., CSEA Local 880 1st Vice President, in the parking lot of the CSEA building. During this conversation, Theresa Carroll-Kohutka left the building and was walking towards her vehicle which was in their direction. Complainant asked if he could speak to her and then inquired as to why she was questioning his subordinates about whether he had ever mistreated them. Complainant alleges Theresa Carroll-Kohutka stated, "Who are you to be asking me questions?" It was at this time that a Town employee named Mike Errico exited the building and approached complainant aggressively while shouting profanity.

The complainant alleges that on the same date, several hours later, Theresa Carroll-Kohutka proceeded to write a post on Facebook regarding the incident. While the post did not include complainant's name, this post was a violation of respondent's social media policy. The issue was reported to the Town Attorney Albina Kataeva for investigation, to no avail.

Respondent denies complainant's allegations of discrimination and asserts that the events described had no relationship to the complainant's protected characteristics. Respondent states two employees working under complainant's supervision, who identify as the same race as complainant (Black), complained they were being mistreated by complainant. Theresa Carroll-Kohutka, as their union representative, engaged with these individuals in this capacity.

Respondent maintains that complainant's behavior in the parking lot of the CSEA office on June 8, 2020 was wholly inappropriate and, as a result, he was issued a 10-day suspension of his employment.

After investigating the instant complaint the Division finds no evidence which suggests Kohutka's response to the events of June 8, 2020, were discriminatory in nature. The mere assertion of discrimination does not bolster such a claim. Individual responses to such events vary and given the subjective nature of the circumstances, an inference of discrimination cannot be drawn by an individual's desire to contact an authority to regulate undesirable circumstances.

Moreover, given the fact that two of complainant's subordinates, who both identify as Black, have reported being mistreated to an extent to warrant union intervention, it does not appear unreasonable for the union to make inquiries regarding any other behavior which may be deemed untoward. Complainant's disagreement with the allegations of his subordinates does not negate the union's desire to determine if there is a concern which may need to be remedied.

While the complainant has found the stress of these prevailing circumstances to be physically disabling in the form of anxiety and sleep disruptions, there is no suggestion of discrimination.

The complainant has failed to show he has been discriminated against on the basis of his protected characteristics.

The complaint is therefore ordered dismissed and the file is closed.

PLEASE TAKE NOTICE that any party to this proceeding may appeal this Determination to the New York State Supreme Court in the County wherein the alleged unlawful discriminatory practice took place by filing directly with such court a Notice of Petition and Petition within sixty (60) days after service of this Determination. A copy of this Notice and Petition must also be served on all parties including General Counsel, State Division of Human Rights, One Fordham Plaza, 4th Floor, Bronx, New York 10458. DO NOT FILE THE ORIGINAL NOTICE AND PETITION WITH THE STATE DIVISION OF HUMAN RIGHTS.

Your charge was also filed under Title VII of the Civil Rights Act of 1964. Enforcement of the aforementioned law(s) is the responsibility of the U.S. Equal Employment Opportunity Commission (EEOC). You have the right to request a review by EEOC of this action. To secure review, you must request it in writing, within 15 days of your receipt of this letter, by writing to EEOC, New York District Office, 33 Whitehall Street, 5th Floor, New York, New York 10004-2112. Otherwise, EEOC will generally adopt our action in your case.

Dated: August 18, 2021
Hempstead, New York

STATE DIVISION OF HUMAN RIGHTS

By: 
Froebel Chungata
Regional Director