

State of Wisconsin



Labor and Industry Review Commission

Miranda L. Wilder, Complainant

Fair Employment  
Decision<sup>1</sup>

Milwaukee Board of School Directors,  
Respondent

Dated and Mailed:

ERD Case No. CR202000051  
EEOC Case No. 26G202000361C

August 8, 2025  
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The decision of the administrative law judge is **affirmed**. Accordingly, the complainant's complaint is dismissed.

By the Commission:

/s/

Michael H. Gillick, Chairperson

/s/

Georgia E. Maxwell, Commissioner

/s/

Marilyn Townsend, Commissioner

<sup>1</sup> **Appeal Rights:** See the green enclosure for the time limit and procedures for obtaining judicial review of this decision. If you seek judicial review, you **must** name the Labor and Industry Review Commission as a respondent in the petition for judicial review. Appeal rights and answers to frequently asked questions about appealing a fair employment decision to circuit court are also available on the commission's website <http://lirc.wisconsin.gov>.

### **Procedural Posture**

This case is before the commission to consider the complainant's allegation that the respondent discriminated against her in terms and conditions of employment because of her age, race and sex, and because she opposed discrimination in the workplace, and that the respondent refused to reasonably accommodate her disability, in violation of the Wisconsin Fair Employment Act (hereinafter "the Act"). An administrative law judge (hereinafter "ALJ") for the Equal Rights Division of the Department of Workforce Development held a hearing and issued a decision. The complainant filed a timely petition for commission review.

The commission has considered the petition and the positions of the parties, and it has reviewed the evidence submitted at the hearing. Based on its review, the commission agrees with the decision of the ALJ, and it adopts the findings and conclusions in that decision as its own.

### **Memorandum Opinion**

#### Discriminatory terms and conditions of employment - training

The complainant was hired by the respondent in January of 2019 to work as a Duplicating Operator I in the respondent's printing office. When she was hired, she believed that she would be trained on the use of a particular graphic design software. The complainant alleged that the respondent failed to train her on that software because of her age, race, and sex, and because she opposed discrimination in the workplace. However, there is no indication in the record that the respondent's decision not to immediately train the complainant on the use of this software was related to her protected status. The respondent had already decided, prior to hiring the complainant, that it would be providing software training to another worker who had a background in graphic design. The respondent was open to training the complainant as well, but not until she mastered other job responsibilities. The complainant, however, left her employment with the respondent before any training could take place.

#### Harassment

The complainant alleged she was harassed because of her age, race, and sex. To prove a claim of harassment in violation of the Act, a complainant must show that (1) the complainant was subject to unwelcome harassment, (2) the harassment was based on the complainant's race or sex, (3) the harassment was so severe or pervasive as to alter the conditions of employment and create a hostile or abusive work environment, and (4) there is a basis for employer liability. *Clark v. Plastocon*, ERD Case No. CR199703063 (LIRC Apr. 11, 2003). Occasional or sporadic instances of harassment are generally not actionable. *Id.* Here, the complainant's supervisor, Paul Kobza, had a gruff demeanor and was short with those he supervised. He also made insensitive comments, including when, approximately three months after the complainant

started working for the respondent, Kobza asked the complainant if she was wearing a babushka. At the time, the complainant was wearing a wig and believed the comment was a reference to her wig. She considered the comment racially discriminatory. Kobza credibly testified, however, that his comment was in reference to a scarf that the complainant was wearing at the time. The evidence further established that Kobza immediately realized that his comment had hit a nerve and apologized. At the time of the incident, the complainant did not voice her concern that the comment was racially motivated.

Months later, the complainant filed an internal complaint against Kobza and two other employees, alleging discrimination on the basis of race, sex, and retaliation. The babushka comment was a central part of the complaint, which also included allegations regarding many minor workplace interactions with Kobza and the two other colleagues. The respondent investigated the complainant's internal complaint and found that no bullying, harassment, or discrimination had occurred. As a result of the investigation, however, the respondent required Kobza to complete a three-part communication training course.

Finally, the complainant also alleged that Kobza referred to a Black colleague's wig as a "rat's nest" and commented to another Black employee about the appropriateness of wearing long fingernails while working in a print shop. These two comments, while inappropriate, were not directed at the complainant and were not sufficiently severe or pervasive to constitute a hostile work environment.

### Retaliation

The complainant also argues that she was discriminated against in retaliation for opposing discrimination in the workplace. The complainant filed her internal discrimination complaint after being informed that her six-month probationary period was being extended by an extra month to give her an opportunity to improve her work. Her complaint was filed *after* most of the acts that the complainant asserts were retaliatory, including Kobza's inappropriate comments, allocation of overtime work, and scrutiny of her work product. Further, as soon as the complainant filed her complaint, the respondent assigned someone else to take over the complainant's supervision, because the complainant and Kobza had a strained relationship. This change in supervision was beneficial for the complainant, and the complainant started getting along with her colleagues better and eventually passed probation.

The complainant additionally alleged that at one point, after the complainant had filed her complaint and Kobza was no longer supervising her, she overheard him tell a colleague that he believed the complainant was attempting to get him fired and that, if that was the case, then "it is on, bitch." However, Kobza credibly denied making the comment. Moreover, even presuming he did make that remark, there is

no basis for a finding of retaliation absent any evidence that he actually engaged in retaliatory action.

Disability accommodation

The complainant also alleged that the respondent failed to reasonably accommodate her disability. However, at hearing, the complainant failed to provide sufficient medical evidence to establish that she is an individual with a disability, as it is defined in the Act. Further, the complainant never provided the respondent with any information regarding her restrictions or limitations. The respondent did not violate the Act by failing to accommodate the complainant's alleged disability.

Attorney questions at hearing

Finally, in her petition for commission review, the complainant argues that the respondent's attorney's questions at hearing in this case were rooted in racial bias. Specifically, the complainant takes issue with questions posed to her regarding a rap artist named "A\$AP Rocky." While the commission agrees with the complainant that this line of questioning was not relevant to the issues to be decided in this case, questions posed by counsel at a hearing do not constitute discrimination in employment or establish a violation of Act, nor did they have any bearing on the commission's decision in this matter.

cc: Atty. Katherine Headley