

State of Wisconsin



Labor and Industry Review Commission

Lanita Tate, Complainant

Fair Employment Decision<sup>1</sup>

Milwaukee Board of School Directors,  
Respondent

Dated and Mailed:

ERD Case No. CR202101864  
EEOC Case No. 26G202100861C

September 15, 2025

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The decision of the administrative law judge is **modified** and, as modified, 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 retaliated against her when it did not hire her because she had previously opposed discrimination in the workplace and filed a complaint with the Equal Rights Division (hereinafter "ERD") of the Department of Workforce Development, in violation of the Wisconsin Fair Employment Act (hereinafter "Act"). An administrative law judge (hereinafter "ALJ") for the ERD held a hearing and issued a decision finding that the complainant failed to show that the respondent refused to hire her because she had opposed discrimination or because she had filed a complaint with ERD. The complainant filed a timely petition for commission review of that decision.

The commission has considered the petition and the positions of the parties, and has reviewed the evidence submitted at the hearing. Based on its review, the commission makes the following:

### **Findings of Fact**

1. The respondent, Milwaukee Board of School Directors (hereinafter "respondent"), operates Milwaukee Public Schools.
2. The complainant, Lanita Tate (hereinafter "complainant"), is an individual who applied for employment with the respondent as a food service assistant in June of 2021.
3. The complainant had previously worked for the respondent, beginning in 1991. She retired with the title "Engineer 1" on January 4, 2021.
4. During the complainant's employment with the respondent, she worked in the building operations department. The building operations department maintains paper employment files about each of its employees. The complainant was subject to discipline while she was employed with the respondent and documents related to those past disciplinary incidents were placed in her employment file.
5. The respondent maintains digital employment files for each of its employees, regardless of which department they work in. These digital files also contain information about disciplinary actions taken against employees.
6. The complainant filed grievances challenging some of the disciplinary actions she was subject to. In one instance, she was successful in reducing the length of a disciplinary suspension. She subsequently took leave to care for an ill family member and then retired before serving the suspension.
7. The complainant filed internal complaints relating to alleged discriminatory treatment and harassment during her employment with the respondent. She also filed a complaint with the ERD in January of 2020.

8. The complainant filed an application for employment as a food service assistant with the respondent in June of 2021. LaQuita Hoskin, a talent management specialist for the respondent, conducted an initial review of candidates and checked the respondent's system for information about the complainant. She noted that the complainant had worked for the respondent previously and that her employment ended because she retired. Ms. Hoskin did not review any additional documentation on file with the respondent, either in digital form or on paper, regarding the complainant's prior work for the respondent.

9. Based on her application, the complainant was invited to take the civil service examination and scored a 96%. Based on this score, she was invited to interview for the position.

10. Renee Slotten-Beauchamp, the respondent's operations manager for nutrition services, conducted the complainant's interview. Ms. Slotten-Beauchamp regarded a number of the complainant's answers during the interview as red flags because several of the complainant's answers indicated to Ms. Slotten-Beauchamp that the complainant was more interested in socializing, rather than working. The complainant requested to work at a specific school where she was already familiar with the staff, indicated she did not want much responsibility, and repeatedly indicated she was bored in retirement. Ms. Slotten-Beauchamp rated the complainant a 3 on a 5 point scale and, based only on the interview, recommended the complainant not be hired.

11. In response to some of the questions during the interview, the complainant informed Ms. Slotten-Beauchamp that she had previously worked for the respondent and discussed her prior work history. However, Ms. Slotten-Beauchamp did not review any of the respondent's files related to the complainant. Ms. Slotten-Beauchamp was not aware the complainant had filed an ERD complaint related to her prior employment with the respondent, nor was Ms. Slotten-Beauchamp aware the complainant had filed internal complaints during her prior employment with the respondent.

12. Ms. Slotten-Beauchamp provided the interview results to Christina Rothe, a supervising dietitian for the respondent, who compiled the results of interviews with multiple candidates into a spreadsheet. The spreadsheet indicated which candidates the nutrition services department would like to hire and provided brief notes about the candidates. Regarding the complainant, the spreadsheet indicated she should not be hired and stated: "Made it very known she is just bored in retirement and wants something to do; former Facilities worker who had issues."

13. Ms. Rothe emailed the completed spreadsheet to Ms. Hoskin. Ms. Hoskin then communicated the results to the candidates. She initiated a system generated email to the complainant informing her that she had not been selected for the position. Ms. Hoskin did not make the decision of whether to hire any specific food service

assistant candidate, including the complainant. She simply accepted the recommendations made by the nutrition services department and acted on those recommendations.

14. After learning she was not selected for the job, the complainant emailed Ms. Hoskin and inquired as to why she was not hired. Based on the notes in the spreadsheet sent to her by Ms. Rothe, Ms. Hoskin responded “The decision was based on your interview results and review of your file from when you were a former employee.” The complainant asked for further detail regarding what was in her file and who wrote the interview notes, but Ms. Hoskin did not provide any further information.

### **Conclusions of Law**

1. The complainant failed to establish that the respondent refused to hire her in retaliation for her protected activity, within the meaning of the Act.

### **Memorandum Opinion**

The complainant, who had previously worked for the respondent, made internal complaints of discrimination during her employment with the respondent. She also filed an ERD complaint against the respondent alleging discrimination. Wisconsin Stat. § 111.322 provides that it is an act of employment discrimination to discharge or otherwise discriminate against any individual because she has opposed a discriminatory practice or made a complaint under the Act. The complainant’s prior complaints are therefore protected activity within the meaning of the Act. However, the complainant has failed to show that the respondent’s decision not to hire her was because of that protected activity.

In her petition for commission review, the complainant argues that the ALJ inappropriately weighed the evidence because she considered two exhibits, R11 and R12, to be hearsay. These two exhibits were admitted as evidence at the hearing and the ALJ considered them in making her findings. The commission has thoroughly reviewed the record, including the two exhibits in question, but does not agree with the complainant that the exhibits are “smoking guns” that necessitate a finding that the respondent chose not to hire the complainant because of her prior complaints of discrimination.

Exhibit R11 includes an email from Christina Rothe, a supervising dietitian for the respondent, to LaQuita Hoskin, a talent management specialist for the respondent. In the email, Ms. Rothe indicates that she has attached a document that details who the nutrition services department would like to hire based on the results of interviews. The attached spreadsheet, also part of Exhibit R11, is described more fully above in paragraphs 11 and 12 of the commission’s Findings of Fact.

Exhibit R12 consists of an email chain between Ms. Hoskin and the complainant described in more detail in paragraph 14 of the Findings of Fact.

Ms. Slotten-Beauchamp credibly testified that she recommended not hiring the complainant because of answers she provided during her interview. Ms. Slotten-Beauchamp's interview notes are also part of the hearing record, Exhibit R10, and clearly show that she recommended not hiring the complainant on the basis of the interview. Ms. Slotten-Beauchamp also credibly testified that she did not review the complainant's employment file and had no knowledge of the complainant's prior protected activity.

The interview results were provided to Ms. Rothe, who compiled the spreadsheet that is part of Exhibit R11 discussed above. The commission agrees that the note Ms. Rothe included on the spreadsheet, that the complainant was a "former Facilities worker who had issues" raises a suspicion that the complainant's prior protected activity may have played a role in the decision not to hire her. However, while that may have been sufficient to establish probable cause, at a hearing on the merits the complainant bears the burden of proving discrimination by a preponderance of the evidence, and she has not done so here. Ms. Rothe, the only individual with firsthand knowledge as to the meaning of the note, did not testify at the hearing. It is unknown whether Ms. Rothe reviewed the complainant's employment file, nor, assuming she did so, is it clear that the statement the complainant had "issues" was related to her protected activity and not a reference to the fact that, during her employment with the respondent, the complainant was subject to multiple disciplinary actions. Further, it is unknown whether Ms. Rothe played any direct role in the hiring decision or whether she merely passed along Ms. Slotten-Beauchamp's recommendation not to hire the complainant. In other words, the complainant has not presented evidence sufficient for the commission to conclude that anyone involved in the decision to hire her actually reviewed her employment file or that, if they did, they were concerned about her prior protected activity as opposed to her prior disciplinary actions or some other non-discriminatory information.

The complainant also argued at the hearing that similarly situated individuals were hired when she was not. She provided two examples of individuals who were hired as food service assistants based solely on the results of their civil service exams without being required to undergo an interview. However, the fact that other individuals were hired without an interview is not evidence of discrimination on the respondent's part, but was because the respondent changed its hiring process for food service assistants in September of 2021 and began offering jobs to individuals who passed the civil service exam without requiring interviews.

Finally, the complainant argues that the ALJ was biased against the complainant and that her discussion of the evidence admitted into the record in this case constituted an abuse of discretion. The commission has thoroughly reviewed the record, including the exhibits the complainant believes the ALJ mishandled, and finds no evidence that the ALJ was biased against the complainant or that she abused her discretion. The commission has thoroughly reviewed the entire record, including

the two exhibits at issue, and agrees with the outcome reached by the ALJ. It is clear from the evidence that neither Ms. Hoskin, nor Ms. Sloten-Beauchamp were aware of the complainant's protected activity when the decision not to hire the complainant was made. With respect to Ms. Rothe, the complainant had the burden of proof but has not demonstrated either that Ms. Rothe was aware of or concerned about the complainant's protected activity, or that she had any role in choosing who to hire. Because the commission agrees with the ALJ that the complainant failed to establish she was discriminated against in the manner alleged, the dismissal of her complaint is affirmed.

NOTE: The commission has modified the ALJ's decision to more accurately and completely set forth the findings of fact on which the commission's decision is based.

cc: Attorney Ben Hitchcock Cross  
Attorney Katherine Headley