
APPENDIX SECTION

**United States Court of Appeals
For the First Circuit**

No. 19-2142

WILLIAM H. SORKPOR,

Plaintiff - Appellant,

v.

THE HARLO FENWAY,

Defendant - Appellee.

Before

Howard, Chief Judge,
Selya, Lynch, Thompson,
Kayatta and Barron,* Circuit Judges.

ORDER OF COURT

Entered: January 26, 2021

The petition for rehearing having been denied by the panel of judges who decided the case, and the petition for rehearing en banc having been submitted to the active judges of this court, and a majority of the judges not having voted that the case be heard en banc, it is ordered that the petition for rehearing and the petition for rehearing en banc be denied.

By the Court:

Maria R. Hamilton, Clerk

* Judge Barron is recused and did not participate in the determination of this matter.

United States Court of Appeals
For the First Circuit

No. 19-2142

WILLIAM H. SORKPOR,

Plaintiff - Appellant,

v.

THE HARLO FENWAY,

Defendant - Appellee.

Before

Torruella, Selya and Thompson,
Circuit Judges.

JUDGMENT

Entered: September 14, 2020

Plaintiff-appellant William H. Sorkpor, proceeding pro se, appeals from the district court's grant of summary judgment on his claims of housing discrimination in favor of defendant-appellant The Harlo Fenway. After *de novo* review, see Bonilla-Ramirez v. MVM, Inc., 904 F.3d 88, 91 (1st Cir. 2018), the court concludes that affirmance is in order. See 1st Cir. R. 27.0(c) (court may affirm at any time if no "substantial question" presented). The summary judgment record reveals no direct evidence of discrimination, and, on appeal, Sorkpor has failed to elucidate some genuine issue of material fact bearing on the analysis required for an indirect-evidence-based claim of discrimination. See generally Batista v. Cooperativa De Vivianda Jardines De San Ignacio, 776 F.3d 38, 43 (1st Cir. 2015) (FHA-disability-discrimination claim) ("Summary judgment for the defendant is warranted on a disparate treatment claim if the plaintiff cannot produce either (a) direct evidence of discriminatory intent or (b) indirect evidence creating an inference of discriminatory intent.") (internal quotations omitted); see also Saunders v. Town of Hull, 874 F.3d 324, 331 (1st Cir. 2017) ("It is hornbook law that theories not raised squarely in the district court cannot be surfaced for the first time on appeal.") (internal citations omitted); Oliveira v. New Prime, Inc., 857 F.3d 7, 17 n.15 (1st Cir. 2017) (new arguments cannot be raised for the first time in a reply brief).

Accordingly, we affirm.

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APPENDIX C

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**Civil Action
No: 18-11459-WGY**

**SORKPOR
Plaintiff**

v.

**THE HARLO FENWAY
Defendant**

JUDGMENT

This action came before the Court for a ruling on Defendant's Motion for Summary Judgment. The issues have been heard and the Court Orders the Motion for Summary Judgment is Allowed.

IT IS ORDERED AND ADJUDGED JUDGMENT FOR THE DEFENDANT

The Harlo Fenway

**ROBERT M. FARRELL
Clerk**

By the Court,

**/s/ Jennifer Gaudet
Deputy Clerk**

October 9, 2019

INVESTIGATIVE DISPOSITION

Case Name: William Sorkpor v. The Harlo Fenway
MCAD Docket No.: 17BPR02396
HUD Docket No.: 01-18-8373-8
Investigator: Vera Schneider, Compliance Officer III
Recommendation: Lack of Probable Cause

Introduction

Complainant filed a complaint of discrimination against The Harlo Fenway alleging that Respondent engaged in discrimination on the basis of Race, Color, and Public Assistance in violation of M.G.L. c. 151B, Section 4, Paragraphs 6 and 10, and Title VIII. The subject property is located at 1350 Boylston Street, Boston, MA 02215.

Complainant's Allegations

Complainant states that he identifies his Race and Color as Black. Complainant states that he receives public assistance in the form of SSDI payments. Complainant states that on October 5, 2017, he applied in-person to rent an apartment at The Harlo, a residential apartment building located at 1350 Boylston Street, Boston, MA 02215. Complainant states that Respondent's agent, Chelsea L.N.U, who is White, took his application. Complainant states that on October 5th, he also met Respondent's property manager, Aaron Cramer, who is White. Complainant states that he informed Cramer that part of his income was based on SSDI benefits. Complainant states that when Cramer asked Complainant for proof of income, he submitted proof of income verifying his receipt of SSDI. Complainant states that at this time, Cramer presented him with a notice stating that his application was denied allegedly due to issues with his consumer credit report. Complainant states that he called CoreLogic, the agency that did the credit check, and was told that he had good credit, did not owe any outstanding debts, but that his positive credit was not yet three (3) years old. Complainant states that he spoke to Cramer again on October 9, 2017, and asked for reconsideration of the denial and proposed paying the rent three (3) months in advance. Complainant states that Cramer told him that denials cannot be reconsidered once all the relevant information has been submitted. Complainant believes that his Race, Color, and receipt of SSDI are the true reasons for the denial.

Respondent's Position

Respondent states that Complainant came to the property on October 5, 2017, informed the Respondent that he had just graduated from graduate school and moved to the U.S. from the U.K., and wished to see the least expensive unit. Respondent states the sales and

marketing associate, K.B., showed Complainant the model unit, which is the unit that all potential applicants are shown. Respondent states that Complainant wanted to rent apartment #204 because it was the least expensive unit at \$2485 per month. Respondent states that Complainant submitted an application and returned to the property on October 6, 2017, at which time Complainant was provided with an adverse action letter declining his application. Respondent states that its third party credit screening company, CoreLogic Rental Property Solutions, denied Complainant's application based on Complainant's failure to meet the property's set financial requirements. Respondent states that Complainant was advised that he could re-apply with a co-signor, but informed Respondent that he could not obtain a co-signor. Respondent states that it advised Complainant that he could contact the third party credit scoring company, CoreLogic with any questions. Respondent states that on Saturday, October 7, 2017, Complainant called the property and stated that someone at CoreLogic advised him to "make a deal" and offer to pay three (3) months of rent up front. Respondent states that Complainant was informed that Respondent would not "make a deal." Respondent states that Complainant called the property later that afternoon and stated that he was going to "get the state involved."

Summary of Investigation and Analysis

Refusal to Rent

In order to establish a *prima facie* case based on refusal to rent, Complainant must show that: (1) he is a member of a protected class; (2) he inquired about renting the property; (3) he was qualified to rent consistent with Respondent's terms and conditions at the time of the alleged act of discrimination; (4) Respondent refused to rent to the Complainant; and (5) after Respondent refused to rent to the Complainant, the property remained available, or Respondent rented the dwelling to a similar or lesser qualified person who is not a member of Complainant's protected class.

In this matter, Complainant has established that (1) and (2) he is a member of protected classes based on race/color and receipt of public assistance and he inquired about renting the property. Investigation revealed that Complainant identifies his race and color as Black and he receives public assistance in the form of monthly SSDI benefits. Investigation also revealed that on October 5, 2017, Complainant went in person to apply to rent an apartment at The Harlo, a residential apartment building located at 1350 Boylston Street, Boston, MA 02215. Investigation revealed that Complainant spoke to salesperson K.B., stating that he had just arrived from the United Kingdom and wanted to move in immediately. Investigation revealed that on October 5th, 2017, Complainant submitted an application to rent unit #204 for \$2,485.00 per month and placed \$500 down as a deposit to hold the unit.

However, Complainant has not established that (3) he was qualified to rent the unit for \$2,485 per month. Investigation revealed that on his application, Complainant listed his monthly income from SSDI in the amount of \$1,276 per month. Investigation revealed


that Respondent uses CoreLogic Rental Property Solutions to review applicant information based on the applicant's credit report, application, and previous rental history. Investigation revealed that Respondent requires a score of at least 575 in order to accept an applicant; a score between 525 and 575 might be accepted with certain conditions; and a score below 525 will be declined. Investigation revealed that Complainant's score fell below 525, at 464.

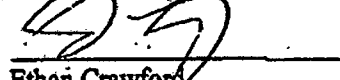
Complainant asserts that he has the necessary funds to rent the subject property. In his rebuttal, Complainant asserts that the annual rent for the subject property is \$29,820, while his annual income is \$33,683.06. Complainant further states that he submitted information to Respondent showing that he had additional funds available in his Citizen's Bank account and "cash on hand," leaving him with an excess of \$10,063.06 for the year after rent expenses. During investigation, Complainant provided a monthly account statement from CoMerica Bank dated October 2017, with a starting balance of \$14,840.06. Complainant also submitted a Citizens Bank statement showing a current balance of \$1,199.00 as of October 31, 2017, as well as a debit sale receipt from the U.K.

While Complainant can establish that (4) Respondent refused to rent to the Complainant, Respondent has provided a legitimate business reason for refusing to rent to Complainant. Investigation revealed that on October 5, 2017, Respondent submitted to Complainant a notice of adverse action based on information obtained through CoreLogic Rental Property Solutions credit reporting agency, which indicated that Complainant had insufficient income to rent the unit and did not meet CoreLogic's recommended credit score requirement. Complainant provided and investigation revealed insufficient evidence to establish a connection between Respondent's alleged actions and Complainant's protected classes. Complainant has also not provided sufficient evidence to show that Respondent's offered reason was pretextual. Accordingly, there is insufficient evidence upon which a fact-finder may determine that a discriminatory practice occurred. A finding of lack of probable cause is recommended.

Conclusion

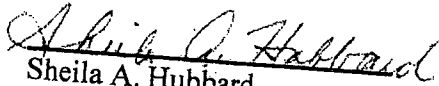
A finding of Lack of Probable Cause is recommended for Complainant's claims of discrimination based on race/color and public assistance against the Harlo Fenway.


Vera Schneider
Investigator


Ethan Crawford
Enforcement Advisor

Disposition

Pursuant to section 5 of chapter 151B of the Massachusetts General Laws, and in conformity with the foregoing findings, I have this day determined that a **Lack of Probable Cause** is being rendered on this case. Complainant will be afforded the opportunity to appeal this decision.


Sheila A. Hubbard
Investigating Commissioner

January 18, 2018
Date



U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
Thomas P. O'Neill, Jr. Federal Building
10 Causeway Street, Room 321
Boston, Massachusetts 02222-1092

November 22, 2017

William Sorkpor
PO Box 15235
Boston, MA 02215

Dear Complainant:

Subject: Housing Discrimination Complaint
Sorkpor v. The Harlo Fenway
Inquiry No. 542986
HUD Case No. 01-18-8373-8

On October 10, 2017, the U.S. Department of Housing and Urban Development (HUD) accepted your complaint of housing discrimination under the Fair Housing Act (the Act) [42 U.S.C. 3601, et seq.]. Please retain the attached copy of the complaint for your records. This letter refers only to the complaint listed above. HUD will send you separate notice(s) regarding any other complaints you have filed.

HUD has referred your complaint to the Massachusetts Commission Against Discrimination for investigation as required by the Act [42 U.S.C. 3610(f)]. HUD has determined that the fair housing law that the Massachusetts Commission Against Discrimination enforces is substantially equivalent to the Act, and it has the authority to address discrimination within the area where your complaint arose. The Massachusetts Commission Against Discrimination, therefore, will take all further action on this complaint. Please direct any questions you may have about the processing of your complaint, or any additional information that supports it, to that agency. If the Massachusetts Commission Against Discrimination fails to begin processing your complaint within 30 days, HUD may take up your complaint again. Otherwise, HUD will not send you any further correspondence regarding this complaint.

During its investigation of your complaint, the Massachusetts Commission Against Discrimination will attempt to informally resolve the complaint through conciliation. If the parties cannot reach an agreement, the Massachusetts Commission Against Discrimination will complete its investigation and issue a decision on whether there was a violation of the law. If you do not agree with the final decision of the Massachusetts Commission Against Discrimination, you can appeal in accordance with the agency's procedures. You cannot appeal the decision to HUD.

In addition to filing your complaint with the Massachusetts Commission Against Discrimination, you may file a civil lawsuit in Federal district court [42 U.S.C. 3613]. You must file any civil lawsuit no later than two (2) years after the alleged discriminatory housing practice occurred or ended. The time during which the Massachusetts Commission Against Discrimination handles your complaint does not count towards this two-year limit.

Be aware that it is unlawful to coerce, intimidate, threaten, or interfere with a person in the exercise of their rights under the Act [42 U.S.C. 3617]. If you believe that anyone has taken such action against you because you filed a complaint, please report it to the Massachusetts Commission Against Discrimination.

Please keep the Massachusetts Commission Against Discrimination informed of your current address and contact information. If the agency cannot locate you, it cannot continue to process your complaint.

You may contact that agency at the following address.

Massachusetts Commission Against Discrimination
One Ashburton Place
Boston, MA 02108

Sincerely,



Robert D. Forti,
Intake Branch Chief
Office of Fair Housing and
Equal Opportunity

Enclosures