

STATE OF MAINE
KENNEBEC, ss

SUPERIOR COURT
CV-16-35

MAINE HUMAN RIGHTS
COMMISSION and
HOPE JOHNSON

Plaintiffs

v.

**FINDINGS AND ORDER FOR ENTRY OF
JUDGMENT**

CALVIN BISHOP

Defendant

This case was tried by the Court without a jury on September 12, 2017. Attorney Barbara Archer Hirsch represents the Maine Human Rights Commission (MHRC). Attorney Patricia Ender represents Hope Johnson. Attorney Jeffrey Pickering represents Calvin Bishop. Mr. Bishop was unable to attend the trial due to a recent automobile accident which occurred on August 29, 2017, the date this matter was initially set for trial. Plaintiff's counsel asked that the Court hear from the Plaintiff's witnesses on that date given the long distance they had traveled together with their financial circumstances. However, the trial was continued by the Court to September 12, 2017 so that Mr. Bishop could attend if possible and hear the Plaintiff's case in person. On September 12, 2017 Mr. Bishop did not appear but counsel for the parties agreed that the Court should take testimony from the Plaintiff's witnesses, and that the Court should accept his January 17, 2017 deposition as his trial testimony.

The Court has considered the testimony of the trial witnesses and exhibits, Mr. Bishop's deposition, as well as the post-trial arguments filed by the attorneys, the last of which was received by the Court on November 1, 2017, and issues the following Order for Entry of Judgment.

FINDINGS AND CONCLUSIONS

The Plaintiff rented a mobile home from the Defendant in New Limerick, Maine from January of 2014 until May of 2014. Her rent payment was \$400 per month and she claims she paid every month. Under the rental agreement she was responsible for paying for electricity. According to the Plaintiff, the Defendant came to see her the third of every month. She testified that he would also "show up a lot" and make sexually explicit remarks. For example, he told her that he wanted to know what it was like to get a blowjob from a woman with no teeth (Plaintiff has no teeth). He would ask her how "she took care of her needs" and made comments such as that "she must play with herself." He "smacked her on the butt" when she went down the hallway to the trailer. Plaintiff would respond by rebuffing his behavior and remarks, telling him that he should go home to his wife, and to stop asking about things that were none of his business. Plaintiff testified that when she protested, Defendant would remind her that "I own the place and I can come and go anytime" he wanted to. According to the Plaintiff, the Defendant would enter day or night, and that he would claim to drop by in order to repair things, "but he never repaired things." One of his entries was on an occasion she was taking a shower. She stated that he would help himself to coffee and toast.

The Plaintiff claims that the Defendant tried to evict her even though she had paid her rent. She testified that he told her he had to evict her because “you are dangerous to me.”

Plaintiff also claims that the Defendant stole her cat and gave it to neighbors, that he initiated eviction proceedings in retaliation, and that he shut off her electricity before she was scheduled to move out.

The Plaintiff testified that this behavior made her “feel like trash”. She said it affected her “a lot” as she was destitute and felt he was taking advantage of her vulnerabilities. She stated that her experience has made her withdraw from people, and that she remains afraid of landlords. She described “wanting to go to sleep and not wake up” and that she cries when she thinks about what went on. She testified that she confided in her daughter and also to a friend. She stated, “No one wants to live the way I had to live.”

The Defendant concedes that he made the remark about the blow job and acknowledges that it was crude and offensive. In his brief, Defendant states “Defendant clearly violated Plaintiff’s rights in violation of law” but argues that her request for relief “far exceeds any reasonable interpretation of her damages. The Defendant also denies the Plaintiff’s allegations of retaliation. He claims that she neglected to put the electricity in her name as they had agreed she would, and that he started eviction proceedings because she failed to pay rent on time.

Although the Court was unable to receive the testimony of the Defendant in person, it gave him that opportunity. However, he agreed through counsel that the Court should accept his deposition as his trial testimony. The Court was able to receive the testimony of the Plaintiff in person and the Court found her testimony to be highly credible, not only as to what occurred, but also as to how it has affected her. Her testimony was corroborated by the testimony of Sherry Cofske who also endured the Defendant’s offensive remarks and conduct. The Court finds that

the Plaintiff did nothing to encourage or signal approval for his outrageous comments and behavior. It is obvious to the Court that the Defendant was motivated by his belief that he was entitled to treat her in this fashion, because he was her landlord and she was his female tenant.

The Court finds that the Plaintiff has proven by a preponderance of evidence that the Defendant discriminated against her under the Federal Fair Housing Act on the basis of gender by creating a hostile housing environment. Given the nature of the Defendant's conduct, which included repeated and highly offensive comments about Plaintiff's physical attributes, unwanted requests for sexual contact, and unpredictable and unwanted entries into her mobile home, he violated the "privacy, security and refuge" of her home. 81 Fed. Reg. 63055-56, HUD Executive Summary.

Likewise, Plaintiff has proven by a preponderance of evidence that Defendant violated the Maine Human Rights Act by discriminating against her on the basis of gender in "the conditions or privileges of the sale, rental or lease" of housing accommodations. 5 M.R.S. §4582. Further, he did "threaten, intimidate or interfere" with her enjoyment of her dwelling because of her gender. Me. Hum. Rights Com'n Reg., 94-348 C.M.R. Ch. 8, §8.09(B)(2).

With respect to the claim of retaliation, the Court finds that the Plaintiff has proven by a preponderance of evidence that the Defendant retaliated against her. She has demonstrated that she engaged in protected activity by opposing and protesting Defendant's sexual entreaties and behavior. The materially adverse actions he took included the shutting off of her electricity and the taking of her cat. While it has not been proven that eviction proceedings were initiated in retaliation for her objections to his behavior, the other adverse actions came after her refusals and objections, and after she, through counsel, informed his attorney that she had been subjected to sexually harassing conduct by him. Further, it is important to note that the Defendant, in large

measure, does not dispute the allegations, but more importantly has failed to establish any legitimate non-discriminatory reason for his behavior and statements. The Plaintiff therefore has also made out a claim pursuant to 5 M.R.S. §4633(1).

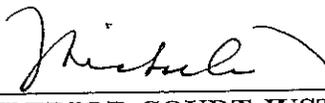
The Court will therefore order the following relief for the Plaintiff. The Defendant is ordered to cease and desist from unlawful housing discrimination based on gender, and from engaging in unlawful retaliation and interference. He is ordered to pay a civil penalty in the amount of \$10,000.

Plaintiff has proven by a preponderance of evidence that she has suffered emotional distress as a result of Defendant's conduct. His conduct made her feel fearful, degraded, vulnerable, depressed and even that her life was not worth living. She still feels the emotional effects of his conduct. The Court will therefore order emotional distress damages in the amount of \$50,000.

The Court declines to order imposition of punitive damages in this case given the monies that the Defendant will be required to pay under this order. Ms. Covski described the Defendant as "just ignorant." The Court cannot find on this record by clear and convincing evidence that his actions were done with actual or implied malice.

The entry will be: Judgment will be entered in favor of the Plaintiff on her claim under the Federal Fair Housing Act and on her claims under the Maine Human Rights Act. He shall pay civil damages in the amount of \$10,000 and emotional distress damages in the amount of \$50,000. Counsel for the Plaintiff may submit a motion and affidavit seeking an award of counsel fees. Plaintiff shall have her costs, and interest on the damages awarded as provided by Maine law.

1/2/18
DATE



SUPERIOR COURT JUSTICE