

C 5/27/81

Laura Carey
New Hampshire Commission for
Human Rights

and

Bruno & Stillman

FINDINGS
and
ORDER

#ES-1850-778-457
E.E.O.C. #011800901

I. Procedural Background

1. Complainant Laura Carey filed a timely charge of sex discrimination in employment against Respondent Bruno & Stillman, with the New Hampshire Commission for Human Rights (NHCHR) and the United States Equal Employment Opportunity Commission (EEOC), on January 21, 1980. EEOC deferred processing of the charge to the NHCHR under the provisions of Section 706(c) of the United States Civil Rights Act of 1964 as amended (42 USC § 2000 e et seq.).
2. The charge was investigated and a Finding of Probable Cause was made by Commissioner James Donchess.
3. As all attempts at conciliation failed, a Public Hearing was held on February 25, 1981, before Commissioners Robert J. Normandeau, Gail F. Paine, and Nancy Richards-Stower.
4. The complaint was presented at Hearing by Meryll Gibbs, Acting Executive Director of the Commission for Human Rights, under the provisions of RSA354-A:9. The parties appeared at Hearing, but neither party was represented by counsel.

II. Findings of Fact

1. Respondent Bruno & Stillman is a manufacturer of fiberglass boats. In March 1980, Respondent employed 142 people, of whom six were women. Respondent experiences high employee turnover. In 1979 nineteen hourly employees were fired, eighteen men and one woman, and 367 hourly employees quit, 334 men and 33 women.
 2. Complainant Laura Carey, a white female, was hired by Respondent as a fiberglass laminator, an hourly wage production job, on June 22, 1976.
 3. Respondent has no set policy on employee pay raises and uses no formal evaluation procedure.
 4. It is clear from testimony at Hearing that Complainant had a very good performance record as a fiberglass laminator. Complainant received thirteen pay raises between June 22, 1976, and October 8, 1979, going from \$2.53 per hour to \$6.06 per hour. Complainant was made a lead worker in her section after about four months on the job.
 5. Complainant several times requested promotion to foreman, the last time being in September 1978.
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6. Complainant was promoted to foreman on October 8, 1979. As a foreman she supervised six employees, all male. On October 26, 1979, she was informed by her supervisor she was being removed from the position of foreman but could return to her old job with no loss in pay or seniority. Complainant chose to quit rather than return to her old job.
7. Complainant charges that because she is female, Respondent did not give her a fair chance to prove herself as a foreman. She charges that Respondent discriminated against her in promotion and pay, that male employees with less experience were promoted before she was, and that she had to fight for raises and promotion that were given automatically to male employees. She also charges that a male employee with less experience and seniority replaced her as foreman.
8. Respondent's production workers (including laminators) are hourly wage employees. Lead workers exercise some minor supervisory authority but are not considered part of management and remain in the hourly wage group. Foremen are considered management and are salaried. There are no set guidelines for either wages or salaries.
9. It is Respondent's policy to promote from within whenever possible. This policy is informal and there are no set guidelines for promotion to foreman. Training, skills, experience and job performance are considered, as well as company seniority.
10. When a worker is promoted to foreman, there is a try-out period usually lasting two to three months. Again, this is an informal policy with no written guidelines or rules. If the new foreman proves satisfactory, the promotion is made permanent and the foreman is then put on salary. If the new foreman does not work out, he or she may be demoted at any time before being put on salary. The demoted employee may go back to being a production worker with no loss in pay or seniority.
11. Respondent claims that its employees were aware of the policy described above. However, the testimony was conflicting as to whether Complainant was ever actually informed of Respondent's "try-out" policy for new foremen.
12. Complainant was promoted to foreman because of her excellent performance and good attitude as a laminator and because she had seniority and had shown interest in being promoted. Complainant had a high school

- (12) education, but no technical training prior to going to work for Respondent. Her only work experience prior to Bruno & Stillman was as a playground supervisor. She had no prior experience, paid or unpaid, applicable to her job at Bruno & Stillman.
13. Shortly after Complainant's promotion, her supervisor, Robert Bruno, became aware of problems in her section. Workers complained and refused to work under her and work got behind schedule. Such problems are not unusual for a new foreman. Bruno discussed the problems with Complainant. He also talked to the men under her, telling them to cooperate with her and to follow her instructions, and asking them to "give her a chance" since she was new to being a foreman.
14. However, as time passed, the problems increased. Of six employees under Complainant, two quit and two developed serious absentee problems. Work in her section was seriously delayed.
15. Bruno testified that he considered the possibility that the male employees working under Complainant might attempt to cause problems for her because of her sex. He stated that he spoke to some employees about this possibility and warned them against it.
16. The complaints received from employees working under Complainant did not relate to her sex but to her inability to communicate with employees and to organize the work. Bruno observed that she failed to schedule work properly and was unable to motivate the people under her. Work in her section was seriously behind schedule. As a result Bruno decided on October 26, 1979, to demote her and ask her to return to her former job.
17. During the period between the time Complainant was hired by Bruno & Stillman and the time she was promoted to foreman, Respondent promoted five male production workers with less seniority than Complainant. Four were promoted to foreman and one to personnel manager. All had special skills that Complainant did not have.
18. David Payne was hired about a year after Complainant and promoted to foreman before her. Payne was a trained mechanic and had skills needed in the job to which he was promoted.
19. Donald Stickney was hired about three years after Complainant and was promoted to foreman before her. Stickney was a trained carpenter and again, had skills needed in the job, which was foreman of a section building "high finish" pleasure boats.

20. Glenn Mueller, hired about two and a half years after Complainant, was promoted to foreman before Complainant. Mueller had advanced technical training and experience in boat building.
 21. Steve Watson, hired about a year after Complainant, was promoted to foreman before Complainant. He was a trained mechanic and was promoted to mechanic foreman.
 22. Scott Wood, hired about two years after Complainant, was promoted to personnel administrator. Wood had a degree in business and was familiar with personnel administration.
 23. Payne, Stickney, and Watson, all male, were all demoted after a few weeks as foremen. They were demoted during their try-out period, in the same manner as the Complainant, because they did not work out as supervisors. All were asked to return to their former jobs.
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Since Complainant's treatment was the same as that of several male employees who failed in the supervisor try-out period and since Respondent did make an effort to help Complainant succeed and since the reason for removal from the supervisor position was clearly related to a critical production need, therefore, the Commission FINDS no illegal discrimination in this case. The complaint is hereby dismissed.

SO ORDERED.

Robert J. Normandeau

Robert J. Normandeau,
Commissioner

Gail F. Paine (EPW)

Gail F. Paine,
Commissioner

Nancy Richards-Stower (EPW)

Nancy Richards-Stower,
Commissioner