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NEW YORK STATE  
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF  
HUMAN RIGHTS on the Complaint of

ADAN ABREU,

Complainant,

v.

VERIZON NEW YORK, INC., DAVE LUCUS, TOM  
BULGER,

Respondents.

DETERMINATION AFTER  
INVESTIGATION

Case No.  
10162287

Federal Charge No. 16GB303439

On 5/13/2013, Adan Abreu filed a verified complaint with the New York State Division of Human Rights ("Division"), charging the above-named Respondents with an unlawful discriminatory practice relating to employment because of race/color, opposed discrimination/retaliation in violation of N.Y. Exec. Law, art. 15 ("Human Rights Law").

After investigation, the Division has determined that it has jurisdiction in this matter and that PROBABLE CAUSE exists to believe that the Respondents have engaged in or are engaging in the unlawful discriminatory practice complained of.

Pursuant to the Human Rights Law, this matter is recommended for public hearing. The parties will be advised of further proceedings.

Dated: July 17, 2014  
Hauppauge, New York

STATE DIVISION OF HUMAN RIGHTS

By:

Ronald B. Brinn  
Regional Director

**NEW YORK STATE  
DIVISION OF HUMAN RIGHTS**

TO: Files

REGION: Long Island

FROM: Ronald B. Brinn  
Regional Director

DATE: July 16, 2014



SDHR CASE NO: 10162287-13-E-RO-E

Federal Charge No. 16GB303439

SUBJECT: Adan Abreu v. Verizon New York, Inc., Dave Lucas, Tom Bulger

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**FINAL INVESTIGATION REPORT AND BASIS OF DETERMINATION**

**I. CASE SUMMARY**

This is a verified complaint, filed by complainant, Adan Abreu, on Mon 5/13/2013. The complainant who is Hispanic, charges the respondents with unlawful discriminatory practices in relation to employment because of race/color, opposed discrimination/retaliation.

**II. SUMMARY OF INVESTIGATION**

Complainant's Position:

Complainant stated that he has been employed by Verizon for over twenty five (25) years as a Core Field Technician. Complainant stated that he worked at Fire Island for the last 6 or 7 years. Complainant claimed he was singled out for not wearing his Verizon t-shirt at Fire Island due to his race. Complainant stated he is the only non-Caucasian field technician in his department of 30 employees and identified his race as Black and ethnicity as Hispanic. Complainant stated that during the time he worked on Fire Island he was assigned to work in an area that contained poison ivy. Complainant stated he did not wear his Verizon t-shirt because he did not want to bring the poison ivy home to his family, and instead chose to wear a tank top. Complainant also stated that other employees did not wear their Verizon t-shirts. Complainant stated that his foreman reprimanded only him for not wearing a t-shirt. Complainant stated as a result of being reprimanded for not wearing his company t-shirt he was removed from Fire Island and assigned to work back in the main garage in Holbrook. Complainant stated that on September 12, 2012 after he was transferred back to the garage his foreman was choosing field technicians to go to Fire Island, and he was not chosen. Complainant stated that he should have been chosen and was offered no explanation as to why he was not. Complainant claimed that another Verizon employee named Tom Keller completed a more serious infraction and was allowed to stay on Fire Island and no action about the incident was taken.

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Respondents' Position:

Respondent provided a copy of Equal Employment Opportunity/Affirmative Action Policy (see r ex. A). Respondent stated that the Complainant's position required him to wear a Verizon-branded polo shirt. Respondent claimed that the Complainant was warned on two prior separate occasions to wear his company shirt. Respondent stated on the first occasion the Complainant was not wearing his company shirt he was warned by former supervisor Rick Francis about wearing inappropriate attire. On the second occasion, Complainant was warned by the Area Manager, Thomas Bolger, that Complainant needed to wear his company shirt and follow company policy. Respondent stated that it was not until the third occasion that the Complainant's work location was changed. Respondent claimed that the Complainant's work location was changed because of Complainant's failure to comply with the work requirement to wear the company shirt. Respondent stated that other similarly situated white employees have been moved from Fire Island for policy violations as well. Respondent stated that the Complainant's rate of pay never changed and the transfer was not a demotion.

Investigator's Observations:

Respondent stated that they removed a white employee from Fire Island for sun bathing while on duty, and another white employee for leaving his shift early without permission. Though the Respondent was directed to provide corroborating documentation, Respondent chose to stand on the merits of their statement. Respondent stated that they investigated the allegations against Tom Keller. There was no evidence that the incidents occurred. Respondent stated that after receiving the anonymous tip that Mr. Keller lent a company vehicle to a vendor, they contacted Ocean Beach Village Hall(Courthouse), and were told that no citations were given for a Verizon vehicle.

Complainant submitted a copy of a letter dated January 10, 2013 that he sent to Rob Connelly, District Manager. In the letter, complainant informed Mr. Connelly that Messrs. Lucas and Kelly did not discipline the other staff for not wearing their shirt, and they were not removed from Fire Island, and that he is being treated differently because he is not white.

Respondent stated there were four other white employees (Richard DelGiorno in June 2013, Scott LaBuda in 2006, Ronald Haff in July 2013, Edward Falkman in 2011) who failed to follow supervisor instructions, and they were removed from Fire Island.

During the investigation, complainant stated that Chris Riordan(white) kicked a sea creature on Fire Island which resulted in his actions against wildlife being litigated in Federal Court and him being mandated to pay a fine. Complainant stated though Mr. Riordan violated respondent's policy, and he was not removed from working on Fire Island.

Respondent claimed that complainant was not the only employee warned for violating company policy. Respondent has not provided information to support that Dave Lucas warned or disciplined others during this time period for such violations. Complainant stated that it is widely known and practiced amongst the many Technician's on Fire Island that the Verizon T-shirts are not worn.

During a one party fact finding conference with Complainant, he stated that there were other employees who had incidents with Verizon. Complainant claims that Ron Hass who is a white Field Technician was caught in a photograph in a news article titled "Fire Island Becomes Test Case as Verizon Abandons Copper" not wearing any safety gear. Complainant provided the news article that included a Verizon employee violating dress code as he was wearing shorts shorts, not wearing his Verizon shirt or any safety gear (see c ex. 1). Complainant stated that he was never removed from Fire Island because of this. The last and final incident that Complainant stated was that Steve Durkin who is a White Field Technician was caught sleeping while at work. Mr. Durkin also took the company vehicle for personal use. Mr. Durkin was caught by security and since he was going to be punished he opted to retire early.

Respondent's NY/NE Associate Workplace Attire Guidelines (see r. ex B) state that tank tops are inappropriate work attire.

Respondent stated that to some employees Fire Island is a desirable location because it involves working near the beach, there is less daily supervision, and there is the possibility to receive overtime in the summer.

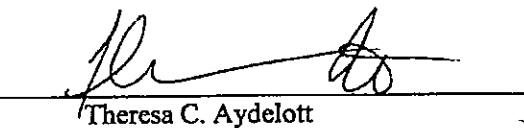
Respondent explained that Mr. Lucas was not complainant's supervisor, and that he had complainant transferred back to work in Bohemia NY.

The Division interviewed Complainant's two witnesses, Arthur Paulinosino and Steve Moore via telephone on 7/14/14. Both witnesses attested that working on Fire Island is considered a "promotion" since there is more overtime and opportunity to make money and there are not as many bosses at the location. Both witnesses attested that dress code was not regularly enforced on Fire Island. Mr. Paulinosino confirmed that one of the splicers lent out the key to a Verizon vehicle to a contractor in the area. Mr. Paulinosino states that this contractor received a ticket, and the situation was resolved when a fine was paid. To his knowledge, Mr. Paulinosino believes that the employee is still employed and was never transferred off of Fire Island. Mr. Paulinosino stated an employee, Chris Riordin, kicked a sea-creature in Fire Island. Witness believes that Chris Riordin was taken off of Fire Island while the case was being pursued, but later returned to Fire Island. Mr. Paulinosino stated that employees that committed more serious infractions than not wearing the Verizon shirt remained on Fire Island. Mr. Moore claims that Dave Lucas was "out to get" Complainant. Mr. Moore attests that he is not aware of any white employees that were reprimanded due to violation of dress code. Mr. Moore claims that the same day Complainant was reprimanded for violating dress code, many cable splicers were not wearing their Shirts and were wearing shorts and they were not reprimanded.

The Division conducted a telephone interview with Ron Muskarella, a business agent for Respondent on 7/14/14. Witness claims that the Respondent did not want Complainant working on Fire Island ever again because he did not trust Complainant in a location where there was not many bosses supervising. Witness claims that he did not work in the garage with Complainant, so he has no knowledge of the supervisor treating the Complainant differently than other employees due to his race.

The Division requested that additional information be submitted by the Respondent no later than July 15, 2014. The Division requested the Respondent to identify white persons and contact information for those who were also removed from Fire Island for violations along with documentation that confirms their removal dates, dates of relocation and places of relocation. The Division also requested any documentation and all correspondence regarding complainant reporting alleged discriminatory conduct to the ethics board and to Rob Connely, District Manager. To date, the Division has not received this information, and the Respondent had chosen to stand on the merits of their response.

Submitted by:

  
Theresa C. Aydelott  
Human Rights Specialist II

### III. BASIS FOR DETERMINATION


There is merit to complainant's allegations of discrimination. Complainant's belief that he was discriminated against because of his race/color and opposition to discriminatory practices is substantiated by information establishing a causal connection between the Respondent's action and the Complainant's protected basis. The investigation revealed that dress code was not regularly enforced. There is also evidence that white employees were not reprimanded for not wearing their Shirt or wearing shorts as they reprimanded Complainant. There is also evidence that other employees committed more serious infractions, but were either not transferred from Fire Island to a different location or were reinstated to Fire Island. The witnesses Messrs. Paulinosino and Moore confirmed that whites were not reprimanded for not wearing their Verizon shirt and committed more serious infractions. There is no information to doubt the veracity of the Complainant's statements.

Nothing from the investigation revealed that the Respondent addressed the Complainant's allegation of discrimination. It is reasonable to believe that the Respondent penalized the Complainant for his expressed opposition to discriminatory practices.

Based on the foregoing, the Division recommends that this complaint be resolved at public hearing where the parties can present their position before an administrative law judge, and where liability can be established and damages assessed where warranted.

### IV. DETERMINATION

Based on the foregoing, I find **PROBABLE CAUSE** to support the allegations of the complaint.

  
Ronald B. Brinn  
Regional Director