



**Division of
Human Rights**

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LAW OFFICES OF
FREDERICK K. BREWINGTON

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF
HUMAN RIGHTS on the Complaint of

KYRIN TAYLOR,

Complainant,

v.

MITCH COOPER, DAREN SOBEL, AUSTIN
RUTELLA, COOPER POWER AND LIGHTING
CORP.,

Respondents.

DETERMINATION AFTER
INVESTIGATION

Case No.
10212133

Federal Charge No. 16GC101924

On 5/13/2021, Kyrin Taylor 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 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: *Dec. 3 2021*
Hauppauge, New York

STATE DIVISION OF HUMAN RIGHTS

By: *Froebel Chungata*
Froebel Chungata
Regional Director

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

TO: Files

REGION: Long Island

FROM: Froebel Chungata
Regional Director

DATE: December 2, 2021

SDHR CASE NO: 10212133-21-E-R-E

Federal Charge No. 16GC101924

SUBJECT: Kyrin Taylor v. Mitch Cooper, Daren Sobel, Austin Rutella, Cooper Power and Lighting Corp.

FINAL INVESTIGATION REPORT AND BASIS OF DETERMINATION

I. CASE SUMMARY

This is a verified complaint, filed by complainant, Kyrin Taylor, on Thu 5/13/2021. The complainant who is Black, charges the respondents with unlawful discriminatory practices in relation to employment because of race/color.

II. SUMMARY OF INVESTIGATION

Complainant's Position:

Complainant claims he began working for respondent in or about December 2020 as a C4 Apprentice and on or about April 20, 2021, he was confronted with a noose and an attempt at another noose in the Tool Room where he worked. Complainant alleges he was fearful of the environment where coworkers felt free to commit such a heinous act, he contacted his union and the Suffolk County Police Department. Complainant indicates he was able to identify the culprits in the dastardly act as coworkers, Darren Sobel and Austin Rutella.

Complainant asserts Mitchell Cooper, owner, identified the culprits to him in the presence of Timothy McCarthy, Union representative and again in front of the Suffolk County police officers who responded to his call. Complainant maintains Mr. Cooper demonstrated a lack of recognition of the pain associated with this discriminatory act. Complainant insists other acts of discrimination occurred including in or about February 2020 when Mr. Sobel disrespected complainant, which was reported to Mr. Cooper, who did nothing.

Complainant contends on or about April 21, 2021, he reported to work and saw Mr. Rutella assigned with him causing him to become concerned for his safety. Complainant indicates he was disappointed and emotionally distraught over seeing one of the perpetrators of the offense still employed subjecting him to further potential harm. Complainant notes he is the only African American at the workplace.

Respondents' Position:

Respondent disagrees, complainant was hired as a C4 Apprentice in or about December 2020 but was working toward a Journeyman Electrician title having never qualified for the New York State program. Respondent disagrees with complainant's observation he was the only Black employee employed by respondent. Respondent identified Lloyd Patterson, Director of Information Technologies employed since 2007, Jean Benoit, Foreman, employed since August 29, 2019 and Melissa Chinatomb, Administrative Assistant, employed since 2018, as additional Black employees.

Respondent argues Mr. Sobel and Mr. Rutella, were not initially known by Mr. Mitchell Cooper, owner, to be the perpetrators of the construction of the hangman's noose. Respondent indicated the accused culprits fashioned the rope in the course of performing the transferring of material from one place to another. Respondent contends complainant was not "afraid" nor frightened by the noose and was jovial as he called his union representative and waited for the Police.

Respondent asserts a full investigation was conducted, and this incident was found to be an isolated event. Further, respondent believes they took swift and appropriate action once the offensive act was discovered by dismissing the bad actors within a day of the occurrence. Respondent denies complainant was subjected to a hostile work environment by the employer.

Investigator's Observations:

The Division reviewed all documentation provided by each party to the complaint.

The Division conducted a one party conference with complainant. Complainant participated with his attorney Frederick Brewington, Esq. Complainant stated he was hired in early December 2020 at respondent as an apprentice pursuing a Journeyman Electrician status with the International Brotherhood of Electrical Workers (IBEW). Complainant continued in or around February 2020, Mr. Darren Sobel was disrespectful to him and attempted to give him direction, though he was not his direct report. Complainant added, upon information and belief, Mr. Sobel was disenchanted with him and through another coworker expressed threatening behavior because Mr. Sobel allegedly felt disrespected by complainant.

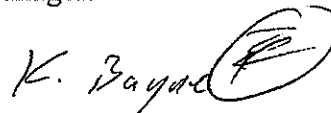
Complainant contended when he was confronted with the noose in the Tool Room he frequented as a normal course of performing his duties and responsibilities, he contacted his Union President, Keith Casey, but eventually received assistance from Union Representative Timothy McCarthy. Complainant added he contacted the Suffolk County Police Department for additional protection, because he was frightened by the incident. In the presence of Mr. McCarthy and captured on audio and video (Exhibit A and B), Mr. Cooper can be heard identifying the offenders as Mr. Darren Sobel and Mr. Austin Rutella. Complainant formed the

opinion based upon Mr. Cooper's captured audio recording defending Mr. Rutella that his distress from the incident was not being taken as a serious racial incident warranting immediate action. Complainant reflected respondent's insensitivity was demonstrated when complainant was paired with Mr. Rutella the very next day.

Complainant asserted it was only after he resigned did respondent terminate both Mr. Sobel and Mr. Rutella. Complainant added Mr. Cooper had admonished him for "breaking the chain of command", when he contacted the Suffolk County Police Department.

The Division reviewed video evidence of the fashioning of the noose in complainant's work area in the Tool Room. The Division reviewed video and audio of Mr. Mitchell Cooper, owner, identifying Mr. Sobel and Mr. Rutella as the persons who constructed the racially offensive noose and try to deflect blame from Mr. Rutella. The video was sent with complainant's rebuttal and has been uploaded into Law Manager.

Submitted by:


Kenneth W. Bayne
Human Rights Specialist I

III. BASIS FOR DETERMINATION

For workplace harassment alleged to have occurred on or after October 11, 2019, or alleged to have continued until or beyond that date, the legal standard for actionable harassment, including but not limited to sexual harassment, has been changed by an amendment to the Human Rights Law. To be an unlawful discriminatory practice, harassment is no longer required to be "severe or pervasive." The amendment added the following new paragraph:

1. It shall be an unlawful discriminatory practice:

(h) For an employer, licensing agency, employment agency or labor organization to subject any individual to harassment because of an individual's age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, domestic violence victim status, or because the individual has opposed any practices forbidden under this article or because the individual has filed a complaint, testified or assisted in any proceeding under this article, regardless of whether such harassment would be considered severe or pervasive under precedent applied to harassment claims. Such harassment is an unlawful discriminatory practice when it subjects an individual to inferior terms, conditions or privileges of employment because of the individual's membership in one or more of these protected categories. The fact that such individual did not make a complaint about the harassment to such employer, licensing agency, employment agency or labor organization shall not be determinative of whether such employer, licensing agency, employment agency or labor organization shall be liable. Nothing in this section shall imply that an employee must demonstrate the existence of an

individual to whom the employee's treatment must be compared. It shall be an affirmative defense to liability under this subdivision that the harassing conduct does not rise above the level of what a reasonable victim of discrimination with the same protected characteristic or characteristics would consider petty slights or trivial inconveniences.

Executive Law, art. 15 (Human Rights Law) § 296.1(h). These new standards have been applied in order to make a determination in this case as to whether there is probable cause to believe that unlawful discrimination has occurred, based on the evidence obtained from the investigation.

The evidence gathered during the course of the investigation of the instant complaint is sufficient to support the complainant's allegations of unlawful discrimination. The investigation revealed complainant was consistent in explaining how and when he was subjected to a hostile work environment created by two employees, Daren Sobel and Austin Rutella (both Caucasian), when a noose was displayed in the location where complainant performed his duties. The record reflected complainant, as an African American, was offended by the violent and aggressive display of a derogatory racial symbol which invoked deep emotional pain.

The Division finds there are questions of law and fact that cannot be addressed at the Regional Level and must be referred for a full hearing before a trier of fact. These issues include, whether the employer's actions or inaction, before and after the alleged misconduct, contributed to a hostile work environment. And what is the employer's liability after a noose is displayed at the workplace, whether this misconduct was condoned or not by the employer.

IV. DETERMINATION

Based on the foregoing, I find **Probable Cause** to support the allegations of the complaint.



Froebel Chungata

Regional Director