



People With Disabilities Foundation

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August 16, 2021

Sent via mail

Kevin Kish, Director
Department of Fair Employment and Housing
2218 Kausen Dr., Ste. 100
Elk Grove, CA 95758

Re: Response to Appeal Objection

DFEH Case No: [REDACTED]

HUD No: [REDACTED]

Case Name: [REDACTED] JFK Tower LP et al.

Dear Mr. Kish:

This is an objection based on abuse of discretion from the California Department of Fair Employment and Housing (DFEH), who did not use due diligence to obtain evidence that the complainant was discriminated against on basis of psychiatric disability (PTSD, psychosis) and transgender.

After approximately four years of investigation and appeal, the above referenced case was finally completed (attached for your reference). Originally, there was a faulty investigation and the complaint closed with no finding of discrimination. The agency refused to show complainant or her attorney any evidence DFEH received from anyone including themselves. Please return all documents related to complaint under her CA freedom of information and privacy act or similar statues. I agreed to represent [REDACTED] over three years ago, notwithstanding DFEH's objections, after receiving two extensions of two weeks each and then filed an appeal in writing even though they said it was not necessary. I spent a long time reconstructing the events because DFEH refused to show me any evidence their investigator received and therefore I had to rebuild complainant's case from her treating psychotherapists and from various providers, hospitals, and elsewhere and sent in two briefs along with the evidence in support thereof. Now, after about three years, the DFEH agent/investigator, [REDACTED], emailed the DFEH determination dated August 4, 2021, attached. The determination stated there was sufficient evidence to support all or some of the allegations set forth in complaint, however, due to the unresponsiveness of the discriminator's attorneys, DFEH was unable to refer this case to the dispute resolution division for voluntary mediation; therefore, DFEH states it has no other recourse other than to close the case.

DFEH's closure statement would retroactively close the case on the date of the initial investigation, December 5, 2018 with a finding that there was discrimination. DFEH then states, the appeal process was completed and that the agency's decision is final.

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In reviewing the case, more evidence came into light that the DFEH employees working on this case could not define long established concepts, such as reasonable accommodation or undue hardship. [REDACTED] stated to me twice that a reasonable accommodation included evicting complainant from her home rather than giving her another apartment like other tenants received on the basis that perhaps she could find a place to live with friends or relatives. When I plainly pointed to the absurdity of evicting someone with very serious psychiatric disabilities and being transgender, that there is no basis in law or fact in which a discriminatory and bad faith eviction could be considered a reasonable accommodation. The evidence in this case is very substantial, and might even be better described as overwhelming. I can only assume the conduct of the agency to predate the findings of the discrimination to cover up a very incompetent job in applying law and regulations in order to hide the fact that this individual was evicted based on psychiatric disabilities and her gender, transgender. Or it could be that a UD judgment was obtained in the Superior Court in 2018 when she was evicted due to retaliatory evictions for which there are no specific finding as there are none based on alleged transgender status.

For the state, by and through its DEFH, which in theory establishes and enforces compliance in employment and housing laws, it is unacceptable to provide no remedy whatsoever for an individual who has been rendered homeless by an agency's inaction of not doing a good faith investigation. The agency took up to four years to complete their investigation, including through appeal, and then writing a closure letter claiming they have no other recourse other than to close the case because the discriminating parties' (landlord) would not respond to this state agency. We ask the state attorney general and the office of the governor to take appropriate action. Indeed DFEH's website states "State law provides for a variety of remedies for victims of housing discrimination, including: recovery of out-of-pocket losses, an injunction prohibiting the unlawful practice, access to housing that the landlord denied you, damages for emotional distress, civil penalties or punitive damages, and attorney's fees."

Complainant sought all and received none. She was evicted on or about January 2018. Please respond as [REDACTED] has declined.

Sincerely,



Steven Bruce
Attorney for claimant [REDACTED]

Attachment: as stated

Cc: Complainant
Office of Gavin Newsom, Governor of California
DOJ, Civil Rights Division, 10th and Pennsylvania Ave., Washington, D.C.