

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

WILLIAM LOTT,)
)
Plaintiff,)
)
v.) No.
)
KENNY CONSTRUCTION COMPANY,) **JURY DEMANDED**
)
Defendant.)
)

FILED-2
2008 MAR 19 PM 3:10
CLERK OF COURT
JUDICIAL CENTER
CHICAGO, ILLINOIS

COMPLAINT AT LAW

Plaintiff, WILLIAM LOTT, by his attorneys BEST, VANDERLAAN and HARRINGTON,
and for his Complaint at law in this matter, hereby states as follows:

NATURE OF CLAIM

1. This is an action seeking redress for discrimination, harassment and retaliation in employment, in violation of the Illinois Human Rights Act, 775 ILCS 5/2-101, et al., (hereinafter "IHRA") and other common law theories of recovery.

PARTIES

2. Plaintiff WILLIAM LOTT (hereinafter "LOTT" or "Plaintiff") is an African-American male and a resident of Palatine, Illinois, County of Cook, and a citizen of the State of Illinois.

3. Defendant, KENNY CONSTRUCTION COMPANY (hereinafter "KENNY"), is an Illinois corporation, with its headquarters located at 2215 Sanders Road, Northbrook, Illinois 60062, in Cook County.

4. At all relevant times, KENNY was and is an employer under the definition set forth in the Illinois Human Rights Act, and at all relevant times to this action employed a minimum of fifteen (15) employees.

PROCEDURAL REQUIREMENTS

5. LOTT has fulfilled all conditions precedent to the institution of this action under the Illinois Human Right Act. LOTT timely filed a Charge of Discrimination against Defendant with the Illinois Department of Human Rights (“IDHR”). On May 29, 2009, the IDHR completed its investigation and notified him that he had ninety days to file a Complaint in the circuit court in the county where the civil rights violation occurred. This Complaint ensues.

BACKGROUND

6. In April 2005, Plaintiff was hired by KENNY for the full-time position of IT Desktop Technician, and after a year was promoted to the full-time position of Network Support Specialist.

7. At all relevant times, Plaintiff performed his work duties based out of KENNY’s Northbrook office location, or in the field in neighboring areas.

8. Plaintiff’s immediate Supervisor was at all times mentioned herein, Laura Manaugh (hereinafter “Manaugh”), a Caucasian female, who held the title of IT Manager for KENNY in Northbrook, Illinois.

9. Throughout his employment, Plaintiff performed his duties to the expectations of his employer.

10. However, from the beginning of his working relationship with Manaugh until his termination with KENNY, Plaintiff was subjected to a repeated pattern of sexual harassment and

differential treatment by his supervisor, Manaugh.

11. Said harassment included, but is not limited to, being forced to endure inappropriate comments, innuendos, requests for dates, gestures, and other acts of inappropriate conduct by Manaugh.

12. The inappropriate sexual comments Plaintiff endured from Manaugh include, but are not limited to, the following:

- a. "I love you;"
- b. "Managers and employees end up sleeping together because of the vibe of the working relationship;"
- c. "You remind me of my husband. He's so good in bed."
- d. "What kind of women do you like?;"
- e. "You have a long wingspan;"
- f. "You have a magic *wand*;"
- g. "Women are in control because we have the pussy."
- h. "Who was that blonde you walked in with?"
- i. "Are you dating anyone?"

13. Manaugh further engaged in inappropriate sexual activity with Plaintiff that made him uncomfortable, such as continually staring at his body in a provocative way, asking him out to lunch and to her home for dinner, and touched him in ways Plaintiff found offensive.

14. After Plaintiff rejected these advances, Manaugh denied Plaintiff advancement at KENNY by denying him training opportunities and promotions.

15. The foregoing conduct created a hostile work environment for LOTT.

16. Manaugh did not subject other Caucasian, female, similarly situated KENNY employees to the same or similar comments or actions.

17. In the spring of 2008, Plaintiff complained to KENNY's Human Resources Generalist regarding Manaugh's behavior, and informed her he found said behavior offensive.

KENNY's Generalist took no action to resolve LOTT's complaints, but recommended LOTT make a formal complaint to the Director of Human Resources on his own, due to the nature and severity of LOTT's complaints.

18. In June 2008, Plaintiff met with KENNY's Director of Human Resources, and complained about the harassment and differential treatment he was receiving from Manaugh.

19. KENNY failed to conduct a reasonable investigation and provide a reasonable response into Plaintiff's complaints and allegations of harassment and discrimination, and took no action to protect LOTT from Manaugh's actions, and failed to take steps to prevent further acts of harassment and/or discrimination against LOTT.

20. Subsequent to LOTT's complaints to KENNY's Human Resources Director, Plaintiff was treated differently than similarly situated employees. Such acts included, but are not limited to, escalation of LOTT's hostile work environment through hostility and ostracization from Manaugh; being asked if he was going to leave the company; sabotaging his work; on June 19, 2008 Manaugh locked Plaintiff out of the computer system he needed to access in order to perform his job functions; continuous denial of training opportunities, and ultimately, termination.

21. On July 29, 2008, Plaintiff filed a Charge of Discrimination with the Illinois Department of Human Rights and the Equal Employment Opportunity Commission ("EEOC") against KENNY based the treatment he was subjected to by KENNY, through its agents.

22. KENNY was notified of Plaintiff's Charge of Discrimination on August 1, 2008.

23. On August 5, 2008, Plaintiff was terminated from his employment with KENNY CONSTRUCTION. Plaintiff was told by KENNY that it had decided to outsource its IT support

and, therefore, Plaintiff's position was eliminated.

24. KENNY's stated reasons for terminating Plaintiff are pretextual. Plaintiff was the only employee terminated from his position as a result of the alleged "outsourcing," and all other members of the IT Department at that time were retained, some of whom were lesser qualified than Plaintiff.

25. On September 11, 2009, Plaintiff amended his Charge of Discrimination, by filing charges of sexual and racial harassment, discrimination, hostile work environment and retaliation with the Illinois Department of Human Rights, alleging the aforementioned violations of the Illinois Human Rights Act.

26. On May 29, 2009, the IDHR completed its investigation into LOTT's Charge, and notified him that he had ninety days to file a Complaint in the circuit court in the county where the civil rights violation occurred. This Complaint ensues.

COUNT I
SEXUAL HARASSMENT
ILLINOIS HUMAN RIGHTS ACT
775 ILCS 5/1-101 et al.

27. Plaintiff restates and reaffirms the allegations set forth in Paragraphs 1 through 26 of his Complaint as though fully set forth herein.

28. By its knowledge of, participation in and failure to respond to acts of sexual harassment, Defendant KENNY discriminated against LOTT in the terms, conditions and privileges of employment because of his sex, in violation of the Illinois Human Rights Act.

29. Plaintiff was uncomfortable when Manaugh subjected him to such harassment, and Plaintiff asked her to stop. However, Manaugh's behavior continued.

30. KENNY, by and through its agents, managers, supervisors or employees, condoned and knew or should have known of the unwelcome and frequent sexual advances, offensive conduct, inappropriate gestures, comments and physical conduct of its employee, Laura Manaugh, which created an intimidating, hostile or offensive work environment, and failed to take any appropriate remedial measures, despite complaints and reports by Plaintiff of the same.

31. The foregoing acts and conduct by agents, supervisors, managers or employees of KENNY at Defendant's place of business were unwelcome to Plaintiff and unreasonably interfered with his work performance, and seriously affected his physical and psychological well-being.

32. Due to its inaction, as well as the direct actions of its supervisors, KENNY condoned and ratified the aforementioned unlawful acts.

33. Plaintiff was terminated due his sex, due to his refusal to acquiesce to acts of sexual harassment, and due to KENNY's refusal to act regarding Manaugh's harassment, while Manaugh and all other IT employees were either retained, promoted, given a pay increase and/or superior title, all of which LOTT was deprived of due to his termination.

34. Defendant KENNY discriminated against and harassed LOTT in the terms, conditions and privileges of employment because of his sex, male, in violation of the IHRA. KENNY can offer no legitimate reason for such differential treatment or for LOTT's discharge, and any proffered reason is pretext for KENNY's illegal motivation.

35. KENNY's wrongful acts, by and through its agents, were deliberate, intentional, willful, wanton, malicious, oppressive, outrageous and in total disregard and reckless indifference to LOTT's civil rights, and justify the awarding of exemplary and punitive damages.

36. LOTT has suffered significant damages as a result of the above harassment, including loss of employment in a long-standing position, lost income, including but not limited to back pay, front pay and loss of future earnings, benefits, and other incidentals of employment, severe mental and emotional distress, physical harm, embarrassment and humiliation, damage to reputation and attorney's fees and costs. The exact amount of Plaintiff's damages are to be proven at the time of trial, but are within the jurisdictional limits of this Court.

WHEREFORE, Plaintiff, WILLIAM LOTT, respectfully prays for a judgment in his favor against Defendant, KENNY CONSTRUCTION COMPANY, with an award for such damages as may be proven at the time of trial, including but not necessarily limited to back pay, front pay, wage differential, lost benefits, out of pocket pecuniary losses, reasonable attorney's fees, severe emotional distress, pain and suffering, embarrassment, humiliation, damage to reputation, court costs, expense of litigation, expert witness fees, compensatory damages, punitive damages, liquidated damages, pre- and post-judgment interest, and such other and further relief as this Court may deem appropriate.

COUNT II
UNLAWFUL DISCRIMINATION - RACE
ILLINOIS HUMAN RIGHTS ACT
775 ILCS 5/1-101 et al.

37. Plaintiff restates and reaffirms the allegations set forth in Paragraphs 1 through 36 of his Complaint as though fully set forth herein.

38. Pursuant to the Illinois Human Rights Act, Plaintiff has a right to be free from unlawful discrimination in the workplace based upon his race, African-American.

39. By the above actions, but not limited to the same, Defendant KENNY discriminated against Plaintiff in with respect to promotion, selection for training, sexual harassment, discharge, privileges and conditions of employment on the basis of his race, African American, in violation of the Illinois Human Rights Act, 775 ILCS 5/2-102(A).

40. Non-African-American employees were not subject to the same or similar treatment as LOTT.

41. By the above actions but not limited to the same, KENNY created an intimidating, hostile and offensive work environment, which unreasonably interfered with Plaintiff's work performance, and seriously affected his physical and psychological well-being.

42. Plaintiff complained to Defendant's Human Resources Department regarding the above conduct on multiple occasions.

43. KENNY failed to conduct a reasonable investigation and provide a reasonable response into Plaintiff's complaints and allegations of harassment and discrimination, and took no action to protect LOTT from Manaugh's actions, and failed to take steps to prevent further acts of harassment and/or discrimination against LOTT.

44. Due to its inaction, as well as the direct actions of its supervisor, Manaugh, KENNY condoned and ratified the aforementioned unlawful acts.

45. KENNY's wrongful acts, by and through its agents, were deliberate, intentional, willful, wanton, malicious, oppressive, outrageous and in total disregard and reckless indifference to LOTT's civil rights, and justify the awarding of exemplary and punitive damages.

46. LOTT has suffered significant damages as a result of the above acts, including loss of employment in a long-standing position, lost income, including but not limited to back

pay, front pay and loss of future earnings, benefits, and other incidentals of employment, severe mental and emotional distress, physical harm, embarrassment and humiliation, damage to reputation and attorney's fees and costs. The exact amount of Plaintiff's damages are to be proven at the time of trial, but are within the jurisdictional limits of this Court.

WHEREFORE, Plaintiff, WILLIAM LOTT, respectfully prays for a judgment in his favor against Defendant, KENNY CONSTRUCTION COMPANY, with an award for such damages as may be proven at the time of trial, including but not necessarily limited to back pay, front pay, wage differential, lost benefits, out of pocket pecuniary losses, reasonable attorney's fees, severe emotional distress, pain and suffering, embarrassment, humiliation, damage to reputation, court costs, expense of litigation, expert witness fees, compensatory damages, punitive damages, liquidated damages, pre- and post-judgment interest, and such other and further relief as this Court may deem appropriate.

COUNT III
UNLAWFUL DISCRIMINATION - SEX
ILLINOIS HUMAN RIGHTS ACT
775 ILCS 5/1-101 et al.

47. Plaintiff restates and reaffirms the allegations set forth in Paragraphs 1 through 46 of his Complaint as though fully set forth herein.

48. Pursuant to the Illinois Human Rights Act, Plaintiff has a right to be free from unlawful discrimination in the workplace based upon his sex.

49. By the above actions, but not limited to the same, Defendant KENNY discriminated against Plaintiff with respect to instituting a hostile work environment, sexual harassment, promotion, selection for training, discharge, privileges and conditions of

employment on the basis of his sex, male, in violation of the Illinois Human Rights Act. 775 ILCS 5/2-102(A).

50. Other similarly situated female employees were treated more favorably such that they were permitted to attend training, given access to computer systems necessary to perform their job functions, were not terminated, treated hostilely or offensively due to their sex.

51. Plaintiff complained to Defendant's Human Resources Department regarding the above conduct. KENNY failed to conduct a reasonable investigation and provide a reasonable response into Plaintiff's complaints and allegations of harassment and discrimination, and took no action to protect LOTT from Manaugh's actions, and failed to take steps to prevent further acts of harassment and/or discrimination against LOTT.

52. Due to its inaction, as well as the direct actions of its supervisor, Manaugh, KENNY condoned and ratified the aforementioned unlawful acts.

53. KENNY's wrongful acts, by and through its agents, were deliberate, intentional, willful, wanton, malicious, oppressive, outrageous and in total disregard and reckless indifference to LOTT's civil rights, and justify the awarding of exemplary and punitive damages.

54. LOTT has suffered significant damages as a result of the above acts, including loss of employment in a long-standing position, lost income, including but not limited to back pay, front pay and loss of future earnings, benefits, and other incidentals of employment, severe mental and emotional distress, physical harm, embarrassment and humiliation, damage to reputation and attorney's fees and costs. The exact amount of Plaintiff's damages are to be proven at the time of trial, but are within the jurisdictional limits of this Court.

WHEREFORE, Plaintiff, WILLIAM LOTT, respectfully prays for a judgment in his favor against Defendant, KENNY CONSTRUCTION COMPANY, with an award for such damages as may be proven at the time of trial, including but not necessarily limited to back pay, front pay, wage differential, lost benefits, out of pocket pecuniary losses, reasonable attorney's fees, severe emotional distress, pain and suffering, embarrassment, humiliation, damage to reputation, court costs, expense of litigation, expert witness fees, compensatory damages, punitive damages, liquidated damages, pre- and post-judgment interest, and such other and further relief as this Court may deem appropriate.

COUNT IV
RETALIATION
ILLINOIS HUMAN RIGHTS ACT
775 ILCS 5/1-101 et al.

55. Plaintiff restates and reaffirms the allegations set forth in Paragraph 1 through 54 of his Complaint as though fully set forth herein.

56. As specified above, during the course of Plaintiff's employment with KENNY, Plaintiff was subjected to inappropriate comments and harassment from his supervisor Manaugh.

57. After Plaintiff opposed unlawful conduct by refusing to acquiesce to Manaugh's acts of sexual harassment, Manaugh engaged in acts of retaliation against LOTT in retaliation for the same. These acts included, but were not limited to:

- a. Defendant's failure to provide Plaintiff with the training opportunities it gave its other employees in Plaintiff's department;
- b. Poor treatment of Plaintiff, including screaming and yelling at and about him;
- c. Being asked if he was going to leave the company;
- d. Sabotaging Plaintiff's work; and
- e. Locking Plaintiff out of databases he needed to perform his job functions.

58. Plaintiff reasonably and in good faith believed that the comments and actions made by Manaugh throughout his employment were harassment due to his sex and race. Therefore, Plaintiff complained about and reported his supervisor's discriminatory and harassing acts to KENNY, through its employees, officers, agents, and/or supervisors, Angela Braun, Human Resources Generalist, and Rod Boswell, Human Resources Director.

59. After Plaintiff's complaints, no action was taken by KENNY to address or stop the discriminatory and harassing acts LOTT was subjected to by Manaugh, and no acts were taken to enforce any policy of anti-discrimination or harassment.

60. Due to KENNY's failure to act, Plaintiff reported said harassment and discrimination to the EEOC and IDHR on July 29, 2008. KENNY was notified of said complaint on August 1, 2008.

61. Complaining internally to human resources staff or one's supervisor(s), and/or filing a Charge of Discrimination against an employer is a protected activity under the Illinois Human Rights Act. 775 ILCS 5/6-101.

62. Four days after KENNY was notified of Plaintiff's Charge of Discrimination to the EEOC/IDHR, and approximately six weeks after making his internal complaint to Boswell, Plaintiff was terminated from his position by KENNY, through its agents Rod Boswell and Michael Garcia, Human Resources Manager, in retaliation for opposing unlawful conduct, complaining of acts of harassment and discrimination, and for filing a Charge of Discrimination with the EEOC and the IDHR.

63. KENNY's wrongful acts, by and through its agents, were deliberate, intentional, willful, wanton, malicious, oppressive, outrageous and in total disregard and reckless

indifference to LOTT's civil rights, and justify the awarding of exemplary and punitive damages.

64. LOTT has suffered significant damages as a result of the above acts, including loss of employment in a long-standing position, lost income, including but not limited to back pay, front pay and loss of future earnings, benefits, and other incidentals of employment, severe mental and emotional distress, physical harm, embarrassment and humiliation, damage to reputation and attorney's fees and costs. The exact amount of Plaintiff's damages are to be proven at the time of trial, but are within the jurisdictional limits of this Court.

WHEREFORE, Plaintiff, WILLIAM LOTT, respectfully prays for a judgment in his favor against Defendant, KENNY CONSTRUCTION COMPANY, with an award for such damages as may be proven at the time of trial, including but not necessarily limited to back pay, front pay, wage differential, lost benefits, out of pocket pecuniary losses, reasonable attorney's fees, severe emotional distress, pain and suffering, embarrassment, humiliation, damage to reputation, court costs, expense of litigation, expert witness fees, compensatory damages, punitive damages, liquidated damages, pre- and post-judgment interest, and such other and further relief as this Court may deem appropriate.

COUNT V
RESPONDEAT SUPERIOR
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

65. Plaintiff restates and reaffirms the allegations set forth in Paragraphs 1 through 64 of his Complaint as though fully set forth herein.

66. At all relevant times to this complaint, Manaugh was employed as a supervisor by Defendant, KENNY.

67. Manaugh was the supervisor of the Plaintiff, WILLIAM LOTT at all times relevant to this Complaint.

68. At all times relevant to this Complaint, Manaugh was acting within the scope of her employment with KENNY and utilized the powers and authorities given to her by KENNY.

69. During the course of his employment, Plaintiff had to endure yelling and screaming, assaults and batteries, inappropriate sexual comments and activities, and outrageous treatment as described above.

70. Such treatment was a clear abuse of power over Plaintiff, power which was given to Manaugh by Defendant KENNY.

71. Defendant's conduct described herein was both extreme and outrageous to the point that it went beyond the bounds of decency and is to be regarded as intolerable in our society.

72. Manaugh intended for her behavior to cause LOTT emotional distress.

73. Manaugh's behavior did in fact, cause Plaintiff severe and emotional distress and outrage.

74. Plaintiff reported Manaugh's actions to KENNY in the hopes that the treatment that Plaintiff was subjected to would change.

75. Manaugh thereafter subjected Plaintiff to a hostile working environment in that after LOTT complained, Manaugh treated Plaintiff hostilely until August 2008 when Plaintiff was terminated, including ostracising him, ignoring him, and engaging in other acts as described in paragraph 59 above.

76. KENNY ratified, condoned, and approved of Manaugh's actions, as it took no actions to put a stop to the same and ultimately terminated Plaintiff.

77. Manaugh and KENNY intended her/its behavior to cause Plaintiff emotional distress.

78. Manaugh's and KENNY's behavior did in fact, cause Plaintiff severe and emotional distress and outrage. As a direct result of KENNY's actions, Plaintiff suffered lost wages and other benefits of employment, harm to reputation, embarrassment, humiliation, great mental anguish, physical sickness and malaise, emotional distress, and sense of outrage.

WHEREFORE, Plaintiff, WILLIAM LOTT, respectfully prays for a judgment in his favor against KENNY CONSTRUCTION COMPANY, with an award for such damages as may be proven at the time of trial, including but not necessarily limited to lost wages and benefits, past and future, compensatory damages for Plaintiff's physical and emotional abuse, severe emotional distress, pain and suffering, embarrassment, humiliation, damage to reputation, court costs, expense of litigation, expert witness fees, reasonable attorney's fee, punitive damages, and such other and further relief as this Court may deem appropriate.

Respectfully Submitted,

WILLIAM LOTT

By: 

One of His Attorneys

Best, Vanderlaan & Harrington
Kimberly A. Carr
Erin Buck Kaiser
25 E. Washington Street, Suite 210
Chicago, Illinois 60432
(312) 819-1100
Attorney No. 37240