

COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA HUMAN RELATIONS COMMISSION  
GOVERNOR'S OFFICE

GAIL SPARKS, :  
Complainant :  
vs. : DOCKET NO. H-2201  
BERNARD J. WATKO, :  
d/b/a BERNARD J. WATKO :  
AGENCY, :  
Respondent :

HISTORY OF THE CASE, FINDINGS OF FACT,  
CONCLUSIONS OF LAW, COMMISSION'S DECISION AND  
FINAL ORDER

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HISTORY OF THE CASE

On February 19, 1974, Gail Sparks filed a complaint with the Pennsylvania Human Relations Commission at Docket No. H-2201 alleging that the Watko Agency refused to rent to her a house located at 324 St. Clair Avenue, Clairton, Pennsylvania, renting for \$100.00 per month plus utilities. On August 16, 1974, the complaint was amended to cite the Respondent as Bernard J. Watko d/b/a Bernard J. Watko Agency and to allege that refusal to rent was because of Complainant's race, Black. Complainant alleged that this act violates Section 5(h)(1) of the Pennsylvania Human Relations Act, Act of October 27, 1955, P.L. 744, as amended, 43 P.S. §951 et seq.

An investigation into the allegations contained in the complaint was made by representatives of the Commission and a determination was made that probable cause existed to credit the allegations of the complaint. Thereupon, the Commission endeavored to eliminate the unlawful practices complained of by conference, conciliation and persuasion. These endeavors

were unsuccessful and, pursuant to Section 9 of the Pennsylvania Human Relations Act, on August 28, 1975, and on September 18, 1975, a hearing on the merits of the case was convened in Pittsburgh before Commissioner Elizabeth Scott. Respondent waived the right to have three Commissioners present as a Hearing Panel and therefore Commissioner Scott was the only Commissioner hearing the case.

The Hearing Commissioner upon consideration of all the testimony presented before it by both parties recommended that the Commission find in favor of the Complainant.

FINDINGS OF FACT

1. The Complainant herein is Gail Sparks, a Black woman, who resides at 560 Miller Avenue, Clairton, Pennsylvania.

2. The Respondent herein is Bernard J. Watko, a White male, an agent of the Bernard J. Watko Agency.

At the time of the act of discrimination alleged in the complaint, Bernard J. Watko was no longer the owner of the Bernard J. Watko Agency. The Agency officially changed ownership on January 1, 1974, and Robert C. Shaw became the new owner (T. 134). At the time of the act of discrimination alleged in the complaint, Bernard J. Watko was an agent of the Bernard J. Watko Agency (hereinafter Watko Agency) (T. 140).

3. Thomas Sparks, Complainant's husband, a Black male, went to the Bernard J. Watko Agency on Friday, February 15, 1974, at approximately eleven thirty a.m. to inquire about buying or renting the house situated behind the Agency. Mr. Sparks had just gotten off work (T. 6-7).

5. When Mr. Sparks inquired of the woman behind the desk whether the house was for sale or rent he was referred to Bernard J. Watko (T.-7).

6. Respondent told Mr. Sparks that "It [the house behind the Watko Agency] is not for sale or rent " (T. 7).

7. Mr. Sparks called his wife, the Complainant, Gail Sparks, approximately ten minutes after leaving the Watko Agency, told her that he was told that the house was not for sale or rent and suggested that she call and inquire about the house (T. 8, 16) .

8. Complainant is readily identifiable as a Black by her voice (T. 47).

9. Complainant called Watko Agency around one to one thirty p.m. and without identifying herself asked whether the house was for sale or rent (T. 17-18).

10. Respondent answered the telephone, identifying himself as Bernard Watko, and told Complainant that the house was neither for sale nor rent (T. 18).

11. Complainant asked a White co-worker, Bill Randolph to call and inquire about the house (T. 19, 21) because she thought that she was being discriminated against because of her race, Black.

12. Bill Randolph remembered being asked by Complainant to call Watko Agency, although he did not remember whether or not he made the call (T. 102-103, 105).

13. Mr. Randolph believes that he did make the call (T. 104, 106).

14. Complainant gave Mr. Randolph the telephone number and saw him dial the number (T. 121).

15. Bill Randolph called Watko Agency on February 15, 1974, and inquired whether the house behind Watko Agency was for sale or rent.

16. Complainant listened to the conversation on an extension phone in the same room and therefore heard both sides of the entire telephone conversation (T. 22, 114, 118, 121).

17. Complainant knew that it was Respondent on the telephone because the telephone was answered "Watko Real Estate Agency" (T. 118) and she recognized Respondent's voice (T. 129).

Mr. Randolph's telephone call was made only two to three hours after Complainant had first spoken with Respondent and heard his voice (T. 130).

18. Mr. Randolph asked to speak to whomever was in charge of the house behind the office (T. 128). At that time, Respondent and Margaret Vertis, the secretary, were the only employees (T. 178) and the secretary did not handle any of the business aspects of rental (T. 183).

19. Respondent told Mr. Randolph that the house was for rent, that the rent was \$100.00 and described the house. Respondent asked Mr. Randolph where he lived, and Mr. Randolph told Respondent that he lived in Moon Township (T. 123).

20. Fifteen minutes after Mr. Randolph's conversation with Respondent, Complainant again called Watko Agency and spoke to Respondent and without identifying herself asked whether the house behind the office was for sale or rent. Respondent told her that it was neither for sale nor for rent (T. 35-36).

21. On Saturday, February 16, 1974, Complainant asked her sister-in-law, who is White (T. 45), to call Watko Agency and inquire as to whether the house behind the office was for sale or rent. Her sister-in-law made the call using the name Mrs. Green (T. 39, 146, 156).

Complainant's sister-in-law told Complainant that Respondent had told her that the house was for rent (T. 39).

22. Respondent testified that he told Mrs. Green that the house was for rent (T. 157).

23. When confronted by Complainant concerning the availability of the house, Respondent told Complainant and her husband that it had been rented by a "Bill Collins" and that the lease was going to be signed that afternoon, Saturday, February 16, 1974 (T. 11, 42-43, 49-50).

24. There was no such person as Bill Collins. Respondent testified that when the Sparks inquired about the house behind the Watko Agency on February 16, 1974, he was holding the house for David Long (T. 138, 139, 144-145, 170).

25. David Long first contacted Respondent to find a place to live on Thursday, February 21, 1974 (T. 60).

26. Mr. Long could fix the date that he contacted Watko Agency by the fact that it was after he had started his job in Clairton on February 18, 1974 (T. 60, 61).

27. When Mr. Long inquired about a place, Respondent offered the house behind the Watko Agency (T. 62).

28. When Respondent offered Mr. Long the house on February 21, 1974, he indicated that it was available at that time. Respondent did not mention that anyone else was interested in the house (T. 63).

29. Mr. Long first indicated to Respondent that he wanted the house on February 21, 1974, but that he wanted his wife's approval before renting (T. 63).

30. David Long and his wife signed the lease on the house behind the Watko Agency on March 4, 1974 (T. 64).

31. When Complainant and her husband asked Respondent whether the house behind the Watko Agency was for sale or rent on Saturday, February 16, 1974, the house was available. Respondent, Bernard J. Watko, refused to rent Complainant the house because of her race, Black.

32. Because Respondent would not sell nor rent the house in question to her, Complainant was forced to look elsewhere. She paid Rentex \$30.00 to find her a place to live (T. 125, 130-131).

33. The rent Complainant is paying for the place she moved to is \$100.00, the same amount as the rent for the house behind the Watko Agency (T. 125).

34. Although Respondent terminated his employment with the Watko Agency on June 30, 1974, he is still engaging in the real estate business working out of Johnny Marks Agency (T. 151).

CONCLUSIONS OF LAW

1. The Pennsylvania Human Relations Commission has jurisdiction over the Complainant, the Respondent and the subject matter of the complaint under the Pennsylvania Human Relations Act, Act of October 27, 1955, P.L. 744, as amended, 43 P.S. §951 et seq.

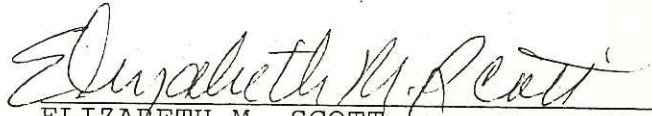
2. Bernard J. Watko's refusal to sell or rent to Complainant, Gail Sparks, the house at 324 St. Clair Avenue, Clairton, which is situated behind the Bernard J. Watko Agency, because of her race, Black, constitutes a violation of Section 5(h)(1) of the Pennsylvania Human Relations Act.

3. The Pennsylvania Human Relations Commission has the authority under Section 9 of the Act to order the Respondent to compensate the Complainant for the damages she suffered as a direct result of Respondent's unlawful conduct.

4. The complaint does not name Robert C. Shaw, owner of the Bernard J. Watko Agency at the time the act of discrimination occurred, or the Agency itself, therefore there is no finding against him or the Agency.

RECOMMENDATIONS OF HEARING COMMISSIONER

AND NOW, this 28th day of March, 1976, upon consideration of all the evidence presented at the public hearing on the above matter, the arguments of Counsel and the proposed History of the Case, Findings of Fact and Conclusions of Law, the Hearing Commissioner recommends to the entire Commission that an Order be entered against Bernard J. Watko holding him in violation of Section 5(h)(1) of the Pennsylvania Human Relations Act and providing for appropriate relief. The Hearing Commissioner further recommends that the complaint against the Bernard J. Watko Agency be dismissed because the complaint does not name Robert C. Shaw, owner of the Bernard J. Watko Agency at the time the Act of discrimination occurred, or the Agency itself.



ELIZABETH M. SCOTT  
Hearing Commissioner



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA HUMAN RELATIONS COMMISSION  
GOVERNOR'S OFFICE

GAIL SPARKS, :  
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v. : DOCKET NO. H-2201  
BERNARD J. WATKO, :  
d/b/a BERNARD J. WATKO :  
AGENCY, :  
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COMMISSION'S DECISION

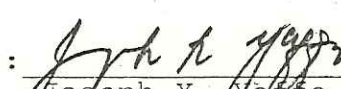
AND NOW, this 28th day of March, 1976,  
upon the recommendation of the Hearing Commissioner and upon  
all the evidence presented at the Public Hearing of this case,  
and in consideration of the History of the Case, the Findings  
of Fact and Conclusions of Law, the Pennsylvania Human  
Relations Commission finds and determines that Respondent  
Bernard J. Watko engaged in an unlawful discriminatory prac-  
tice in violation of Section 5(h)(1) of the Pennsylvania  
Human Relations Act, Act of October 27, 1955, P.L. 744, as  
amended, in that Respondent Bernard J. Watko discriminated on  
the basis of race in his refusal to sell or rent to Com-  
plainant the house behind the Bernard J. Watko Agency located  
at 324 St. Clair Avenue, Clairton, Pennsylvania, and further,  
that the complaint against the Bernard J. Watko Agency be  
dismissed because the complaint does not name Robert C. Shaw,  
owner of the Bernard J. Watko Agency at the time the act of  
discrimination occurred, or the Agency itself.

PENNSYLVANIA HUMAN RELATIONS  
COMMISSION

ATTEST:

  
Elizabeth M. Scott  
Secretary

By:

  
Joseph X. Yaffe  
Chairperson

COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA HUMAN RELATIONS COMMISSION  
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DOCKET NO. H-2201

FINAL ORDER

AND NOW, this 28th day of March, 1976,  
upon consideration of the foregoing History of the Case, Findings  
of Fact, Conclusions of Law, and the Commission's Decision and  
pursuant to Section 9 of the Pennsylvania Human Relations Act,  
as amended, the Pennsylvania Human Relations Commission hereby

O R D E R S :

1. Respondent Bernard J. Watko shall cease and desist from discriminating on the basis of race in the sale and rental of properties.
2. Respondent Bernard J. Watko shall pay complainant, Gail Sparks, the sum of \$30.00 to compensate her for the money she spent in trying to find a place to live because Respondent would not sell or rent to her the house behind the Watko Agency, located at 324 St. Clair Avenue, Clairton, Pennsylvania, plus simple interest at the rate of six (6) percent per year.

3. Payment of the compensation pursuant to paragraph two shall be held in abeyance and shall be effective if and when the Pennsylvania Supreme Court upholds the Commission's authority to order compensatory damages. PHRC vs. Zamantakis, No. 33, May Term, 1974.

4. Respondent Bernard J. Watko shall establish a uniform office system of providing full and equal opportunity to all persons without regard to race, color, religious creed, ancestry, handicap or disability, use of guide dogs because of blindness of the user, age, sex or national origin, said system including, but not limited to:

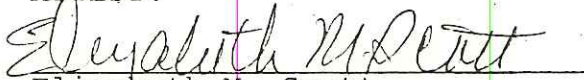
- a. A uniform system for listing property.
- b. A uniform and objective policy and procedure for providing information regarding property listed with the office.

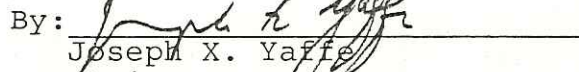
5. Respondent Bernard J. Watko shall, within thirty (30) days of the date of this Order, submit to the Pennsylvania Human Relations Commission notice and proof that the actions required by this Order have been performed.

6. The complaint shall be and is dismissed as to the Bernard J. Watko Agency.

PENNSYLVANIA HUMAN RELATIONS  
COMMISSION

ATTEST:

  
Elizabeth M. Scott,  
Secretary

By:   
Joseph X. Yaffe  
Chairperson