FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

SEP 30 2021

TAMMY H. DOWNS, CLERK
By:_____
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IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF ARKANSAS NORTHERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. WHITE RIVER REGIONAL HOUSING AUTHORITY and DUANE JOHNSON, Defendants.	CASE NO.: 3:21-cv-204-DPM This case assigned to District Judge Marshall and to Magistrate Judge Ray

COPY

COMPLAINT

The United States of America alleges as follows:

1. The United States brings this action to enforce the provisions of Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. §§ 3601, *et seq.* (the "Fair Housing Act" or "FHA").

2. The United States brings this action under 42 U.S.C. § 3612(o) on behalf of Michelle Stormont ("Ms. Stormont").

JURISDICTION AND VENUE

3. This Court has subject-matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. § 3612(o)(1).

4. Venue is proper in this District under 28 U.S.C. § 1391(b) because the actions and omissions giving rise to the United States' claims occurred in the Eastern District of Arkansas and Defendant White River Regional Housing Authority does business in the Eastern District of Arkansas.

THE PARTIES

5. Defendant White River Regional Housing Authority "(Defendant WRRHA") is a non- profit organization created pursuant to the laws of the State of Arkansas, has its principal place of business located at 1327 East Main Street Melbourne, Arkansas, 72556.

6. At all times relevant to this action, Duane Johnson ("Defendant Johnson") was a resident of Arkansas.

7. At all times relevant to this action, Defendant Johnson worked for Defendant WRRHA as an HCV Program Coordinator for Cleburne and Van Buren counties. In that role, Defendant Johnson was WRRHA's agent, with actual or apparent authority to manage all aspects of the HCV program in Cleburne and Van Buren counties.

FACTUAL ALLEGATIONS

8. Defendant WRRHA administers HCV programs in ten Arkansas counties and owns and operates several public housing complexes.

9. Defendant Johnson was employed by Defendant WRRHA from December 14, 2015 through July 6, 2020 as an HCV program coordinator for Cleburne and Van Buren counties and apartment site manager for Hackett Manor Apartments in Clinton, Arkansas.

10. As an HCV program coordinator, Defendant Johnson's duties included receiving and reviewing applications, inputting applications into the HCV program database, determining eligibility, calculating income, selecting applicants from the waiting list, overseeing program briefings, mailing out acceptance letters, and conducting annual inspections. He was also responsible for receiving information from residents, verifying it, and making any necessary adjustments based upon that information.

11. Defendants are involved in the rental of and provision of assistance for "dwellings" as defined by the Fair Housing Act (FHA). 42 U.S.C. § 3602(b).

12. At all times relevant to this action, Defendant WRRHA provided Defendant Johnson, in his capacity as HCV program coordinator, with the actual or apparent authority to, among other things, accept HCV applications, manage the order of applicants on the HCV waiting list, assist applicants with their applications, pull applicants from the waitlist and provide them with a voucher, assist applicants in finding eligible units, determine the amount of benefits an HCV participant receives, determine whether HCV voucher benefits would continue on an annual basis, and schedule inspections and re-inspections of rental units in compliance with the HCV program.

13. Michelle Stormont, at the time of the alleged discrimination, lived with her two minor children at a shelter for survivors of domestic violence and abuse, located in Heber Springs, Arkansas.

14. On February 3, 2020, Ms. Stormont applied to Defendant WRRHA for an HCV in Cleburne County, Arkansas. Defendant Johnson was assigned to process her application.

15. On June 5, 2020, Ms. Stormont spoke with Defendant Johnson about the status of her application. Defendant Johnson scheduled an in-person appointment for June 9, 2020 for Ms. Stormont to view an HCV program video and complete her application.

16. Between the June 9, 2020 appointment through around June 14, 2020, Ms. Stormont had repeated contact with Defendant Johnson about her HCV application. This contact happened by telephone, text, and in person. During these interactions, Defendant Johnson subjected Ms. Stormont to discrimination on the basis of sex, including unwelcome sexual harassment that was severe or pervasive. The harassment included, but was not limited to:

a. Subjecting her to unwelcome touching by caressing a tattoo on her leg;

b. Requesting full-frontal nude photographs in exchange for his assistance in finding available housing, and graphically describing the poses he wanted for the nude photographs;

c. Sending her photographs of other scantily clad or topless individuals;

d. Subjecting her to unwelcome sexual advances by asking her to "play," commenting on her appearance, and stating that she made him "frisky;" and

e. Threatening to take adverse actions, such as posting nude photographs of Ms. Stormont on Facebook, if she reported him.

17. Defendant Johnson's actions were unsolicited and unwelcomed by Ms. Stormont.

18. Ms. Stormont, after being notified she had been selected from the voucher waitlist, chose not to pursue the voucher because she was afraid of Defendant Johnson and did not want him to know where she lived.

19. Ms. Stormont ultimately moved into a unit without federal financial assistance.

20. The above-described actions and conduct of Defendants caused Ms. Stormont to suffer economic harm, physical harm, fear, anxiety, and emotional distress.

21. The discriminatory conduct described above occurred within the scope of Defendant Johnson's agency relationship with Defendant WRRHA, or was aided by the existence of that agency relationship.

22. Defendant WRRHA is liable for the actions of Defendant Johnson.

HUD ADMINISTRATIVE PROCESS

23. On July 2, 2020, Ms. Stormont filed a timely fair housing complaint against Defendants WRRHA and Duane Johnson with the United States Department of Housing and Urban Development ("HUD") alleging that Defendants discriminated against her in the rental of the subject property because of sex.

24. Pursuant to 42 U.S.C. § 3610, the Secretary of HUD conducted and completed an investigation of the complaint, attempted conciliation without success, and prepared a final investigative report. Based upon the information gathered in the investigation, the Secretary

determined that reasonable cause existed to believe that Defendants violated the Fair Housing Act. Therefore, on April 29, 2021, the Secretary issued a Charge of Discrimination, pursuant to 42 U.S.C. § 3610(g)(2)(A), charging Defendants with engaging in discriminatory housing practices on the basis of sex.

25. On May 5, 2021, Ms. Stormont elected to have the claims asserted in the HUD Charge of Discrimination resolved in a civil action pursuant to 42 U.S.C. § 3612(a).

26. On May 5, 2021, an Administrative Law Judge issued a Notice of Election to Proceed in United States Federal District Court and terminated the administrative proceeding on Ms. Stormont's complaint.

27. Following this Notice of Election, the Secretary of HUD authorized the Attorney General to commence a civil action, pursuant to 42 U.S.C. § 3612(o).

CAUSE OF ACTION

28. Plaintiff realleges and incorporates by reference herein the allegations described above.

29. By the actions and statements described above, Defendants have:

a. Denied housing or otherwise made housing unavailable because of sex, in violation of 42 U.S.C. § 3604(a);

b. Discriminated in the terms, conditions, or privileges of the rental of a dwelling, or in the provision of services or facilities in connection therewith, because of sex, in violation of 42 U.S.C. § 3604(b);

c. Made statements with respect to the rental of a dwelling that indicated a preference, limitation, or discrimination based on sex in violation of 42 U.S.C. § 3604(c); and

d. Coerced, intimidated, threatened, or interfered with a person in the exercise or

enjoyment of, or on account of her having exercised or enjoyed, rights granted or protected by 42 U.S.C. § 3604(a), in violation of 42 U.S.C. § 3617.

30. Ms. Stormont is an "aggrieved person" as defined in 42 U.S.C. § 3602(i), and has suffered damages as a result of Defendants' discriminatory conduct.

31. Defendants' discriminatory conduct was intentional, willful, and taken in reckless disregard of the rights of Ms. Stormont.

PRAYER FOR RELIEF

WHEREFORE, the United States prays that this Court enter an Order that:

32. Declares that Defendants' actions, policies, and practices, as alleged in this Complaint, violate the FHA;

33. Enjoins Defendants, their agents, employees, and successors, and all other persons in active concert or participation with them, from:

a. Engaging in discrimination on the basis of sex in any aspect of the rental or lease of a dwelling;

b. Engaging in discrimination on the basis of sex in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection therewith;

c. Stating any preference, limitation, or discrimination on the basis of sex;

d. Coercing, intimidating, threatening, or interfering with persons in the exercise or enjoyment of, or on account of their having exercised or enjoyed, their rights granted or protected by 42 U.S.C. § 3604(a);

e. Failing or refusing to take such affirmative steps as may be necessary to restore Ms. Stormont, as nearly as practicable, to the position she would have been in but for the discriminatory conduct; and

f. Failing or refusing to take such affirmative steps as may be necessary to prevent the recurrence of any discriminatory conduct in the future and to eliminate, to the extent practicable, the effects of Defendants' unlawful housing practices; and

34. Awards monetary damages to Ms. Stormont in accordance with 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1).

35. The United States further prays for such additional relief as the interests of justice may require.

Dated: September 30, 2021

Respectfully submitted,

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