



MITCHELL E. DANIELS, JR., *Governor*

JAMAL L. SMITH, *Executive Director*

ICRC No.: EMsh11070415
[REDACTED]

[REDACTED],
Complainant,

vs.

TRUE FAIR SUPERMARKETS, LLC dba SUPER VALU GROCERY,
Respondent.

NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission (“Commission”), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice has occurred. 910 IAC 1-3-2(b)

On July 20, 2011, [REDACTED] (“Complainant”) filed a complaint with the Commission against Super Valu Grocery (“Respondent”) charging sexual harassment in violation of [REDACTED] the Indiana Civil Rights Law (IC 22-9, et seq.) Accordingly, the Commission has jurisdiction over the parties and the subject matter.

An investigation has been completed. Both parties have been given the opportunity to submit evidence. Based upon a full review of the relevant files and records and the final investigative report, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was subjected to sexual harassment. In order to prevail, Complainant must show that: (1) she experienced sexual comments or actions in the workplace; (2) the comments/actions were severe or pervasive; (3) she made it known that the comments were unwelcome; and (4) Respondent failed to take corrective action to address the hostile work environment.

Complainant alleged that she was subjected to unwelcome comments when a manager asked another co-worker, “What is the Spanish word for a small penis.” Complainant further alleged that Respondent’s owner, [REDACTED], touched her back and asked to see her tattoo. Mr. [REDACTED] is alleged to have routinely made other comments directed towards Complainant of a sexual nature, including comments regarding taking his clothes off. Witness testimony corroborates that Mr. [REDACTED] often times made such comments and flirtations to other female employees, including propositions to take them on out-of-state trips. While the evidence does not indicate that Complainant reported such behavior to anyone but coworkers, she would not have been expected to since the alleged harasser is the owner of the business. It is apparent that the harassment continued even after Complainant voiced her disapproval. For these reasons, there is probable cause to believe that Respondent has violated the Indiana Civil Rights Law, as alleged.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. IC 22-9-1-18, 910 IAC 1-3-5 The parties may agree to have these



claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission within twenty (20) days of receipt of this Notice, or the Commission's Administrative Law Judge will hear this matter. IC 22-9-1-16, 910 IAC 1-3-6

April 5, 2012
Date

Joshua S. Brewster, Esq.
Deputy Director
Indiana Civil Rights Commission