

COOK COUNTY COMMISSION ON HUMAN RIGHTS
69 West Washington Street, Suite 3040
Chicago, Illinois 60602

Lauren SCHOLL, Complainant)	
)	
v.)	Case No. 2013E013
)	
DR. MARK ROSENBLOOM, Respondent)	Entered: September 18, 2014
)	

ORDER FINDING SUBSTANTIAL EVIDENCE

On May 9, 2013, Complainant Lauren Scholl (“Scholl”) filed a complaint against her former employer, Respondent Dr. Mark Rosenbloom (“Rosenbloom”). Scholl states a claim for unlawful employment discrimination after Rosenbloom allegedly terminated her because of her pregnancy and its anticipated effect on her availability to work. If proven true, Rosenbloom’s conduct would violate the Cook County Human Rights Ordinance (“Human Rights Ordinance”). *See* Cook County Code of Ordinances (“County Code”), § 42-35(b)(1). The Cook County Commission on Human Rights (“Commission”) has completed a preliminary investigation into Scholl’s allegations and determined that there is sufficient evidence that a violation of the Human Rights Ordinance occurred to justify a hearing on the merits of Scholl’s complaint.

BACKGROUND

The Commission incorporates by reference the Summary of Party and Witness Statements and Summary of Documentation set out in the attached Investigation Report and highlights only a few relevant findings. Rosenbloom hired Scholl as a personal assistant either at the end of 2012 or the very beginning of 2013. Compl.¶ I; Am. Questionnaire Resp. No. 3(b). Rosenbloom terminated Scholl on April 9, 2013. Compl. ¶ I; Am. Questionnaire Resp. No. 4(a).

The Commission’s investigation found email documentation corroborating a number of allegations from Scholl’s complaint. For example, a December 27, 2012 email from Scholl to Rosenbloom includes the following advanced notice from Scholl that she is pregnant and will require time off after the baby is born:

Before I accept the job opportunity I feel it necessary to tell you that I am about 15 weeks pregnant. . . . My intentions are to stay working until the end and take only about 6 weeks off total (in June due date is June 23)[.]¹

¹ Rosenbloom’s December 27, 2012 response is: “I am very happy you have accepted the position . . . And congratulations on being pregnant! We will work something out when you need time off this summer.” Investig. Rep., Exh. B.

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On the evening of April 8, 2013 – just over 100 days after their initial email exchange and less than 24 hours before Scholl’s last day of work according to the parties – Rosenbloom sent her the following email:

Hello Lauren,

You have really been great from a personal assisting perspective and I do appreciate everything you have done to help me these last 3+ months.

However, 2 things are happening now which make it difficult for you to be able to contribute effectively.

1. Your pregnancy is progressing (which is great!), but it does mean that your availability is becoming less reliable.
2. I really need availability and reliability these next 2-3 months because of 2 major LIFEFORCE-related events requiring significant planning and execution.

Given the above, I do not need your services at this point in time. Once you have given birth and are interested in returning to the business world please contact me again and I will see what you could do then to assist me.

Investig. Rep., Exh. A.

Despite this email, Rosenbloom insisted to Commission investigators that he terminated Scholl for failing to appear for work and for spending working hours on Facebook researching pregnancy issues, engaging in e-commerce and maintaining an outside floral arrangement business. Verified Resp. ¶ 2. As part of the Commission’s investigation, Rosenbloom produced screenshots of internet browser history from February 11, 2013 to May 29, 2013 showing a number of visits to Facebook and other presumably non-job-related websites. Little on the screenshots themselves indicates that this is Scholl’s browser history, but Rosenbloom represents them as such.

DISCUSSION

The Human Rights Ordinance prohibits any employer from “directly or indirectly discriminat[ing] against any individual in hiring, classification, grading, recruitment, discharge, discipline, compensation, selection for training and apprenticeship, or other term, privilege, or condition of employment on the basis of unlawful discrimination.” Cook County Code of Ordinances (“County Code”), § 42-35(b)(1). Discrimination on the basis of an individual’s sex and pregnancy status is unlawful. *Id.* at § 42-31 (defining “unlawful discrimination”); CCHR Pro. R. 500.100 (“It shall . . . be a prima facie violation of the Ordinance for an employer to

subject an employee to unequal terms or conditions of employment or to discharge an employee because she is or becomes pregnant.”).

Here the Commission’s investigation into Scholl’s allegations has produced direct evidence of unlawful pregnancy-based discrimination by Rosenbloom. Under the direct method of proof, direct or circumstantial evidence that respondent’s adverse employment action was motivated by a discriminatory intent will justify the expenditure of limited County resources to hold an administrative hearing on the complainant’s claim. *See McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 803 (1973). In other words, the Commission’s preliminary investigation must find either “an acknowledgement of discriminatory intent by the defendant or circumstantial evidence that provides the basis for an inference of intentional discrimination.” *Dandy v. United Parcel Service, Inc.*, 388 F.3d 263, 272 (7th Cir. 2004) (citing *Gorence v. Eagle Food Ctrs.*, 242 F.3d 759, 762 (7th Cir. 2001)). Rosenbloom’s April 8, 2013 email to Scholl, on its face, admits that Scholl is being terminated because she is pregnant.

The email makes no mention at all of any of the nondiscriminatory grounds for termination cited by Rosenbloom to Commission staff during the course of their investigation.² At this preliminary stage, the Commission will reserve its judgment about the credibility of respondent’s claimed motivation, and allow this matter to proceed to a hearing on liability and damages.

CONCLUSION

For the foregoing reasons and those reasons set out in the adopted Investigation Report (Attachment 1), the Commission finds SUBSTANTIAL EVIDENCE of a violation of the Human Rights Ordinance with respect to complaint 2013E003. The Commission will issue a notice of the date and time of an Initial Status for an Administrative Hearing. In accordance with CCHR Pro. R. 480.100(A), any party may file a request for reconsideration with the Commission within 30 days of the date of this order.

September 18, 2014

By delegation:



Ranjit Hakim
Executive Director of the Cook County
Commission on Human Rights

² Proof of discrimination under the direct method “is not limited to near-admissions by the employer that its decisions were based on a proscribed criterion (*e.g.*, ‘You’re too old to work here.’), but also includes circumstantial evidence which suggests discrimination through a longer chain of inferences.” *Atanus v. Perry*, 520 F.3d 662, 671 (7th Cir. 2008) (internal quotations omitted).