

COOK COUNTY COMMISSION ON HUMAN RIGHTS

69 West Washington, Suite 3040
Chicago, Illinois 60602

Katarzyna WEGRZYNOWSKA and Daniel WEGRZYNOWSKA, Complainants)	
)	
v.)	Case No. 2012H004
)	
Munira SALEH and Issam SALEH, Respondents)	Entered: January 27, 2014
)	

ORDER

Complainants Katarzyna Wegrzynowska and Daniel Wegrzynowska (individually, “Kasia” and “Daniel”; collectively, “the Wegrzynowskas”) brought this action on May 30, 2012¹ against their former landlords, Respondents Munira Saleh and Issam Saleh (individually, “Munira” and “Issam”; collectively, “the Salehs”), for unlawful discrimination on the basis of parental status in a real estate transaction and unlawful retaliation for a good faith opposition to a violation of the Cook County Human Rights Ordinance (“Human Rights Ordinance”). Such allegations, if true, would violate Sections 42-38(b)(1) and 42-41(a) of the Cook County Code of Ordinances (“County Code”). But having completed its investigation, the Cook County Commission on Human Rights (“Commission”) now dismisses the Wegrzynowskas’ complaint because the facts found by its investigation do not show substantial evidence of a violation of either provision of the Human Rights Ordinance.

Background

The Salehs own a three-unit building in Norridge, Illinois. Compl. ¶ 6; Resp. ¶ 6. They reside on the first floor and rent out the garden unit and the unit on the second floor (“Unit 2”). Compl. ¶¶ 7, 9; Resp. ¶¶ 7, 9; Respondent Interview. In May 2011, the Wegrzynowskas entered into a one-year lease with the Salehs for Unit 2, running from June 1, 2011 until May 31, 2012. Compl. ¶ 10; Resp. ¶ 10.

The lease states, in relevant part, that:

Loud music or noise is not allowed in apartment. Apartment is for three adults and one child only.

Compl., Ex. A. The Wegrzynowskas indicate that another adult relative lived with them in Unit

¹ The Wegrzynowskas originally filed their complaint with the Commission on May 25, 2012, but amended their complaint on May 30, 2012 before the Salehs were ever served.

2, but also that at all relevant times, they had two children as well: one biological daughter and one foster son. Complainant Interview. The foster son is Kasia's nephew who was living with the Wegrzynowskas indefinitely while Kasia's sister was out of the country. *Id.* The Wegrzynowskas assert that the Salehs were aware from the beginning of the lease that three adults and two children would reside in Unit 2. Compl. ¶ 15.

The Salehs dispute this assertion, claiming that they were only aware of the Wegrzynowskas' daughter and did not know that the Wegrzynowskas' foster son would reside in Unit 2 in contradiction of the "three adults and one child only" language in the lease.² Resp. ¶ 15; Respondent Interview. What is undisputed is that the relationship between landlords and tenants deteriorated almost immediately after the Wegrzynowskas moved in.

On the morning of June 1, 2011, Munira complained to the Wegrzynowskas that "children were running in the apartment and making too much noise." Compl. ¶ 17; Resp. ¶ 17. That afternoon, Munira telephoned with the same complaint. Compl. ¶ 19; Resp. ¶ 19. Similar complaints about noise followed from Munira on June 3, June 14, August 3 and August 7. Compl. ¶¶ 21-24; Resp. ¶¶ 21-24. The Wegrzynowskas assert that on two of those dates, the children were, in fact, not present. Compl. ¶¶ 18, 20, 24. The Salehs, however, stand by their accusation that someone—adult or child—was making too much noise on the dates in question. Resp. ¶¶ 18, 20, 24. This was consistent with the Wegrzynowskas' statement to Commission staff that Munira also accused the adults in Unit 2 of walking loudly and made additional noise complaints to the Wegrzynowskas on other occasions. Complainant Interview.

Per the Wegrzynowskas' complaint to the Commission, the neighbors quarreled through the fall with a notable blow up on November 14, 2011. The Wegrzynowskas state that they typically left the door to their unit unlocked. On November 14, 2011, the Wegrzynowskas returned home to find the door to their unit had been locked. Compl. ¶¶ 26-27. Kasia asked Munira "why this happened." *Id.* at ¶ 28. The Wegrzynowskas allege that Munira initially denied entering Unit 2 in the Wegrzynowskas' absence, but later admitted that she did because she had heard running water. *Id.* at ¶ 29. The Wegrzynowskas told Commission staff that there was a leaky faucet in the master bedroom (which they had advised the Salehs of in July or August). Complainant Interview. Later that same day, Kasia confronted Issam about why he entered Unit 2 without permission and claims that Issam responded with abusive and profane language. *Id.* at

² The Wegrzynowskas pleaded that the Salehs were aware of both children because "[b]oth children were present at the signing of the lease." Compl. ¶ 15. In their interview with Commission staff, however, the Wegrzynowskas admitted that they only listed one child on their rental application and stated, inconsistently with their verified complaint, that neither child was present at the signing of the lease. Complainant Interview. This is not the only place where the Wegrzynowskas made statements during the course of the investigation that contradicted their complaint. For example, the Wegrzynowskas' complaint discusses several interactions with Munira on June 1, 2011, in which Munira complained about the noise coming from Unit 2 in the mid-morning and early afternoon, Compl. ¶¶ 17, 19, but the Wegrzynowskas told Commission staff that they were unable to even begin moving into the apartment until 8 p.m. that night. Complainant Interview. This inconsistency might be reconcilable if the Salehs' statement to Commission staff that the Wegrzynowskas were permitted to move in a day early, on May 31, 2011, is true, Respondent Interview, but generally inconsistencies of this variety call into question the veracity of either a complainant's written allegations in his or her complaint or his or her oral statements to Commission staff.

¶ 30. The Salehs admitted to Commission staff that they entered the Wegrzynowskas' unit after hearing running water, and Saleh claims that he had to turn off the faucet in the bathroom sink. Respondent Interview. Munira recounted that Kasia was angry that they entered the apartment without permission, claiming that Kasia said that the Salehs should not enter the apartment without permission, even if it is on fire. *Id.* The Salehs, however, denied that Issam used abusive language with the Wegrzynowskas during his subsequent conversation about entering the apartment without prior approval. *Id.*; Resp. ¶ 30.

A week after this incident, on November 21, 2011, the Salehs sent the Wegrzynowskas a letter dated November 18, 2011, stating that the Wegrzynowskas had defaulted on the lease because three adults and two children were living in the unit instead of three adults and one child. Compl. ¶ 31, Ex. B. The Salehs demanded that the Wegrzynowskas quit and deliver up possession of Unit 2 within 10 days of receipt of the letter. *Id.* at Ex. B. The Wegrzynowskas moved out on January 2, 2012, after locating another apartment in the same school district, *id.* at ¶ 38; Resp. ¶ 38, but unfortunately not before the Salehs and Wegrzynowskas could escalate their conflict even further.

On December 1, 2011, Munira again complained to the Wegrzynowskas about noise coming from their unit. Compl. ¶ 32; Resp. ¶ 32. The Wegrzynowskas explained that they were hammering some nails back in to the kitchen floorboards. *Id.* Munira responded to this explanation by calling the police. Compl. ¶ 33; Resp. ¶ 33. The Wegrzynowskas returned the favor by calling the police on Issam a week later, claiming that he banged on the door to their unit and demanded entry. *See* Compl. ¶¶ 34, 36; Resp. ¶¶ 34, 36.

Discussion

The Wegrzynowskas' complaint to this Commission is that the Salehs engaged in a pattern of harassment and verbal abuse against the Wegrzynowskas based on their parental status. Compl. ¶ 40. The Wegrzynowskas claim that the notice they received on November 21, 2011 of a technical violation of their lease was a pretext for evicting them on the basis of their parental status. *Id.* at ¶ 41. The Wegrzynowskas further claim that the eviction was retaliation for questioning the Salehs' illegal entry into their apartment. *Id.* at ¶ 42. There is not substantial evidence to support either claim.

A. Unlawful Discrimination on the Basis of Parental Status

The Human Rights Ordinance prohibits any person from discriminating “in in the price, terms, conditions, or privileges of any real estate transaction, including the decision to engage in or renew any real estate transaction, on the basis of unlawful discrimination.” County Code, ¶ 42-38(b)(1). “Unlawful discrimination” under the Human Rights Ordinance includes discrimination on the basis of “parental status,” which is itself defined as “the status of living with one or more dependent minors or disabled children.” *Id.* at ¶ 42-31. Parental status under the Human Rights Ordinance is defined as a binary condition. A complainant either is or is not a parent. Thus, the parents of one child are similarly situated under the law as the parents of six.

It is unclear whether the Wegrzynowskas are alleging that the Salehs' alleged harassment

was so severe and pervasive as to create a hostile environment that materially changed the terms of the residential rental and, if so, whether a “hostile rental environment” claim exists under the Human Rights Ordinance. But there is no question that an eviction based on a tenant’s protected status is unlawful housing discrimination under the law and so the central question for the Commission is what role, if any, did Kasia and Daniel’s parental status play in their treatment by the Salehs. After all, even if the Salehs harassed the Wegrzynowskas, such harassment would not be actionable under the Human Rights Ordinance unless it was *because* of the Wegrzynowskas’ parental status.

The pleadings and the Commission’s own investigation do not establish substantial evidence that the Wegrzynowskas’ parental status played a determinative role in their treatment. Although the Salehs own several rental properties, the Wegrzynowskas do not allege that the Salehs engaged in harassing or discriminatory behavior with any similarly situated parties. Nor could they. The Commission’s investigation shows that the Salehs’ previous tenant in Unit 2 had the same parental status as the Wegrzynowskas. Jimenez Interview. This former tenant lived in Unit 2 for approximately seven years with her minor daughter. *Id.* The former tenant told Commission staff that the Salehs never complained to her about noise and never limited the number of children who could be in the apartment. *Id.* This former tenant was not evicted because of her parental status; she voluntarily moved out to be closer to her sick mother. *Id.* After supposedly evicting the Wegrzynowskas because Kasia and Daniel are parents, the Commission’s investigation shows that the Salehs rented Unit 2 to another set of tenants with the same parental status. The tenants who succeeded the Wegrzynowskas told Commission staff that they also have a minor child and have not experienced any discriminatory conduct from the Salehs. Sanduka Interview.

With a lack of evidence that the Salehs dislike parents as tenants, the Commission must consider that all parties agree that the Salehs had frequent noise complaints about the Wegrzynowskas (both parents and children) in particular. The garden unit tenant, who lived a floor below the Salehs during the Wegrzynowskas residency confirmed Munira’s impression that the Wegrzynowskas were especially noisy neighbors. According to the garden unit tenant, the Wegrzynowskas made so much noise that he could hear them two floors below. Murphy Interview. He considered them to be the loudest neighbors he has ever had and noted that the Wegrzynowskas’ children made a lot of noise by running and shouting late into the night. *Id.* This tenant, like the Salehs, also had a host of non-noise related complaints about the Wegrzynowskas, including leaving the front door to the building unlocked and not putting garbage in the proper receptacles, but none of these complaints against Kasia and Daniel were for simply having children. *Id.*; Respondent Interview. That the Salehs’ 10-Day Notice to the Wegrzynowskas references only the presence of a second child does not render any other violations of the lease pretextual. There is no dispute that excessive noise was also a grounds for default under the lease. Compl., Ex. A.

B. Unlawful Retaliation

The Human Rights Ordinance also prohibits retaliation against any person “because that person in good faith has opposed that which he or she reasonably believed to be unlawful discrimination, sexual harassment, or other violation of this Ordinance or has made a complaint,

testified, assisted or participated in an investigation, proceeding, or hearing under this Ordinance.” County Code, ¶ 42-41(a). In order to prevail on a claim of unlawful retaliation under the Human Rights Ordinance, a complainant must show: (1) that she sought to exercise a right protected by the Ordinance; (2) that she suffered adverse treatment that is reasonably likely to deter the complainant or others from engaging in protected activity and (3) that there is a causal connection between the protected activity and the adverse employment action. *Washington v. Cook County*, 2005E065, *4 (CCHRC Sept. 26, 2013). The Commission must dismiss a claim in its entirety where there is a lack of substantial evidence to support any element. *Id.*

A complainant can prevail on a retaliation claim even where she fails to show that she has a meritorious claim of unlawful discrimination under the Human Rights Ordinance. *Id.* (“To be protected, opposition to a discriminatory practice requires a good faith belief that the practice is unlawful, not an actual showing of unlawful activity.”). But here even if the Commission’s investigation had found substantial evidence of unlawful housing discrimination, the Wegrzynowskas’ retaliation claim would have been a non-starter.

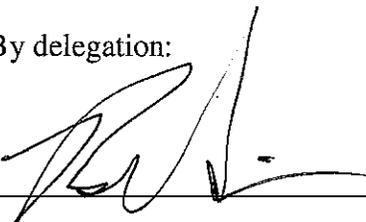
The Wegrzynowskas allege that the 10-Day Notice they received on November 21, 2011, was in retaliation for questioning the Salehs’ purportedly illegal entry of Unit 2 on November 14, 2011. Compl. ¶ 42. They do not allege that the 10-Day Notice was in retaliation for filing a complaint with this Commission or even a conversation in which they told the Salehs that their conduct violated the antidiscrimination provisions of the Human Rights Ordinance. Instead, the pleadings and the Commission’s investigation show that the disagreement on November 14, 2011 between the parties was about whether a landlord needs prior permission from a tenant to enter a rental unit to check for running water. The Wegrzynowskas believe that advanced clearance is required. The Salehs can be presumed by their actions to disagree. Whoever is right is right because of some provision of the lease or some aspect of local or state housing law—not the Human Rights Ordinance. Whatever position one espouses, it cannot fairly be characterized as the assertion of right protected by this antidiscrimination law and, as such, cannot form the basis of a claim of unlawful retaliation under the Human Rights Ordinance.

Conclusion

For the foregoing reasons, the Commission orders that complaint 2012H004 be **DISMISSED** for **LACK OF SUBSTANTIAL EVIDENCE** of a violation of the Human Rights Ordinance. In accordance with CCHR Pro. R. 480.100(A), either party may file a request for reconsideration with the Commission within 30 days of the date of this order.

January 27, 2014

By delegation:



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