

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Din Dol,

Case Type: Employment
Court File No.: _____

Judge: _____

Plaintiff,

v.

**COMPLAINT AND
JURY DEMAND**

City of Minneapolis Fire Department,

Defendant.

Plaintiff Din Dol, for his Complaint against Defendant, Minneapolis Fire Department, states and alleges as follows:

PARTIES

1. Plaintiff Din Dol (“Plaintiff” or “Dol”) is forty-five-year-old Somali-American male, who immigrated to the United States from Somalia. Plaintiff is a resident of Columbia Heights, Anoka County, Minnesota.

2. Defendant City of Minneapolis Fire Department (“Defendant” or “the Department” or “MFD”) is a political subdivision of the State of Minnesota. Defendant’s address is City Hall, Room 233, 350 S. Fourth Street, Minneapolis, MN 55415.

3. At all times relevant hereto, Dol and MFD were employee and employer, respectively, within the meaning of the Minnesota Human Rights Act (“MHRA”), Minn. Stat. § 363A.03, subdivs. 15 and 16, and the Minnesota Whistleblower Act (“MWA”), Minn. Stat. § 181.931, subdivs. 2 and 3.

JURISDICTION AND VENUE

4. Plaintiff invokes the jurisdiction of this Court as violations of law occurred in the State of Minnesota, involve state law, and complete diversity does not exist.

5. Venue is appropriate pursuant to Minn. Stat. § 542.09, because MFD's principal place of business is in Minneapolis, Minnesota, within the borders of Hennepin County.

FACTS

MFD's Discriminatory History Towards People of Color

6. The MFD has a history of discriminatory practices against people of color.

7. From 1930 until 1979, the MFD employed almost no people of color. *See Kohn v. City of Minneapolis Fire Dept.*, 583 N.W.2d 7, 9 (Minn. Ct. App. 1998).

8. In 1971, the Federal District Court for the District of Minnesota found MFD illegally discriminated against people of color. *Carter v. Gallagher*, 1971 WL 132 at *20 (D. Minn. March 9, 1971).

9. From 1979 until 2001, the MFD was under a consent order to hire more people of color.

10. In the late 1990's, a Court in Minnesota found that the MFD unlawfully discriminated against a Hispanic employee, and recognized that "firefighters of color are still few in numbers at the MFD." *See Kohn v. City of Minneapolis Fire Dept.*, 583 N.W.2d 7, 9 (Minn. Ct. App. 1998).

11. As of 2016, over 70% of the MFD's 415 Firefighters were White.

12. Upon information and belief, the percentage of MFD's White Firefighters have increased since 2016.

13. On December 19, 2018, a Black Firefighter with the MFD was quoted by the Minnesota Spokesman Recorder as saying, “Honestly, there aren’t too many African Americans in our Fire Department.”

Dol’s Employment with the MFD

14. MFD hired Dol as a Firefighter Cadet-C (Grade E) on September 23, 2019.

15. Dol began working at MFD on October 7, 2019 and ultimately reported to Fire Chief John Fruetel.

16. As is standard with any Firefighter Cadet new hire, Dol’s continued employment was contingent on him passing training and various stringent exams.

17. Had the Department not unlawfully terminated Dol’s employment, Dol would have been the Department’s first Somali-American Firefighter.

18. The other Firefighter Cadets Dol trained with at the time were predominantly White.

19. Dol experienced discrimination from the outset of his training at the Department.

20. Throughout Dol’s training, Training Captain Chad Komarec, scrutinized Dol’s performance more harshly than that of the other White cadets.

21. Captain Komarec’s disposition towards Dol manifested into outward aggression on December 17, 2019. During a training exercise that day, Captain Komarec physically assaulted Dol by grabbing him and shoving him against a stairwell wall.

22. After the incident, Dol sought out the President of the Minneapolis Black Firefighters Association, Charles Rucker, and told Rucker of the assault and his concern of race discrimination.

23. On or around December 21, 2019, Chief Fruetel met with Dol, and Dol told Chief Fruetel of the assault and his concern of race discrimination.

24. Upon information and belief, an internal investigation into the December 17, 2019 incident began following this meeting.

25. During the internal investigation, Dol reiterated his concerns of discrimination on the basis of “who he is” (*i.e.*, a Somali-American) and the incident with Captain Komarec.

26. On January 6, 2020, the MFD notified Dol that the investigation was complete and concluded that Dol’s allegations that he was physically moved and “slammed against a wall” were substantiated. However, the MFD’s determination was silent on Mr. Dol’s report of race discrimination.

27. As a result of the investigation, Captain Komarec and Deputy Chief J.R. Klepp were removed from the Department’s training division. Upon information and belief, Captain Komarec returned to his position as Captain at one of the City’s firehouses and did not receive any demotion or further discipline relating to the incident.

28. After Dol reported the assault and discriminatory conduct, he experienced increased hostile treatment from his fellow Firefighter Cadets and other Training Captains.

29. Dol’s fellow Firefighter Cadets referred to him as a “trouble maker” in reference to his reports that led to the reassignment of Captain Komarec and Deputy Chief Klepp.

30. After Dol’s protected reports, he began to receive negative weekly performance reviews from Training Captain Shana York. However, Captain York was not present at Dol’s trainings, and Captain York admitted to Dol that the negative feedback came from other Training Captains and Cadets.

31. Dol verbally disputed these performance reviews.

32. On January 15, 2020, Star Tribune published an article regarding Captain Komarec and Deputy Klepp's reassignment following the internal investigation.

33. Two days later, on January 17, 2020, Chief Bryan Tyner interrupted a lecture presented by Training Captain Olson to speak to the class. Chief Tyner stated that there was a Firefighter Cadet that did not follow the chain of command and ordered the Firefighter Cadets to talk to the Captains if they had any issues. Tyner also stated that he will fire the next person that goes outside the chain of command.

34. After Chief Tyner's statements, Firefighter Cadet Amber Wood approached Dol in front of other Cadets and accused him of being the individual Chief Tyner referred to as not following the chain of command. She suggested it was Dol's fault that Captain Komarec and Deputy Chief Klepp were no longer with the training division. Wood told at least one other Firefighter Cadet that she wanted to hit Dol in the head.

35. On that same day, Dol sent a letter to Chief Fruetel describing the continued discriminatory and retaliatory treatment he was experiencing and sought Chief Fruetel's support to stop the behavior from occurring.

36. Upon information and belief, the MFD did not investigate Dol's report and did not respond to Dol's letter.

37. Upon information and belief, despite there being a report about a crime (*i.e.*, Captain Komarec's assault) based on racial bias the MFD did not report to the Superintendent of the Bureau of Criminal Apprehension in violation of Minn. Stat. § 626.5531, subdiv. 1.

38. Dol passed the Fire Fighter Certification I exam on February 11, 2020.

39. Shortly thereafter he passed the Fire Fighter Certification II on February 20, 2020.

40. Upon information and belief, after the Fire Fighter Certification II exam, Dol only needed to complete a hazmat operations test before he could graduate from his training on March 13, 2020.

41. Instead, on February 21, 2020, MFD terminated Dol's employment, stating he was being terminated for not passing the required exams.

42. To the extent Dol did not pass an exam, MFD's policies and procedures permit Firefighter Cadets to retake exams.

COUNT I

RACE DISCRIMINATION IN VIOLATION OF THE MINNESOTA HUMAN RIGHTS ACT MINN. STAT. § 363A.01, *et seq.*

43. Plaintiff re-alleges paragraphs 1 through 42 of this Complaint as if fully re-written herein.

44. Defendant, through its managers and officials acting on their behalf and within the scope of their employment, engaged in unlawful employment practices involving Dol in violation of the MHRA, Minn. Stat. § 363A.01 *et seq.* These practices include, but are not limited to, taking adverse action against Dol which materially affected the terms, conditions, and privileges of his employment, and ultimately terminating Dol, because of his race.

45. Defendant failed to take all reasonable steps to prevent discrimination based upon Dol's race from occurring.

46. Dol's race was a motivating factor in his adverse treatment and termination.

47. Defendant's discriminatory conduct has deprived Dol of equal employment opportunities and otherwise adversely affected his status as an employee.

48. The unlawful employment practices complained of above were intentional and were performed by Defendant with malice or reckless indifference to the MHRA, which protects Dol.

49. As a direct and proximate result of Defendant's illegal conduct, Dol has suffered, and continues to suffer, emotional distress, humiliation, embarrassment, pain and suffering, loss of reputation, loss of enjoyment of life, lost wages and benefits, and has incurred attorneys' fees and expenses and other serious damages.

COUNT II

REPRISAL IN VIOLATION OF THE MINNESOTA HUMAN RIGHTS ACT MINN. STAT. § 363A.01, *et seq.*

50. Plaintiff re-alleges paragraphs 1 through 42 of this Complaint as if fully re-written herein.

51. The MHRA provides that it is an "unfair discriminatory practice for any individual . . . to intentionally engage in any reprisal against any person because that person . . . (1) opposed a practice forbidden under this chapter or has filed a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter" Minn. Stat. § 363A.15.

52. Plaintiff reported practices forbidden by the MHRA, including discrimination on the basis of his race.

53. Plaintiff's protected report of practices forbidden by the MHRA was a motivating factor in his adverse treatment and termination.

54. Defendant's retaliatory conduct has deprived Dol of equal employment opportunities and otherwise adversely affected his status as an employee.

55. The unlawful employment practices complained of above were intentional and were performed by Defendant with malice or reckless indifference to the MHRA, which protects Dol.

56. By its conduct as laid out above, Defendant engaged in reprisal in violation of Minn. Stat. § 363A.15.

57. As a direct and proximate result of Defendant's illegal conduct, Plaintiff has suffered, and continues to suffer, emotional distress, humiliation, embarrassment, pain and suffering, loss of reputation, lost wages and benefits, and has incurred attorney's fees and other serious damages.

COUNT III

RETALIATION IN VIOLATION OF THE MINNESOTA WHISTLEBLOWER ACT MINN. STAT. § 181.931, *et seq.*

58. Plaintiff re-alleges paragraphs 1 through 42 of this Complaint as if fully re-written herein.

59. The MWA prohibits retaliation against employees for making good-faith reports of violations of law. In particular:

An employer shall not discharge, discipline, threaten, otherwise discriminate against, or penalize an employee regarding the employee's compensation, terms, conditions, locations, or privileges of employment because:

The employee . . . in good faith, reports a violation or suspected violation, or planned violation to any federal or state law or common law or rule adopted pursuant to law to an employer or to any governmental body or law enforcement official. . . .

Minn. Stat. § 181.932, subdiv. 1.

60. The MWA defines "report" as follows: "a verbal, written, or electronic communication by an employer about an actual, suspected, or planned violation of a statute,

regulation, or common law, whether committed by an employer or a third party.” Minn. Stat. § 181.932, subdiv. 6.

61. As alleged above, Dol made reports to Defendant regarding what he in good faith believed to be violations of federal law, state law, or rules adopted pursuant to law.

62. The laws which Dol believes Defendant violated include, but are not limited to, assault and misconduct of public officer or employee in violation of Minn. Stat. § 609.43, which prohibits, among other things, a public officer or employee from unlawfully injuring another person.

63. Defendant retaliated against Dol by terminating his employment as a result of his reports of unlawful activity.

64. The adverse employment actions described herein constitute violations of the MWA, Minn. Stat. § 181.931, *et seq.*

65. The unlawful employment practices complained of above were intentional and were performed by Defendant with malice and/or reckless indifference to the laws that protect Dol.

67. As a direct and proximate result of Defendant’s illegal conduct, Dol has suffered, and continues to suffer, emotional distress, humiliation, embarrassment, pain and suffering, loss of reputation, loss of enjoyment of life, lost wages and benefits, and has incurred attorneys’ fees and expenses and other serious damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays:

a. That the practices of Defendant complained of above be adjudged, decreed and declared to be in violation of the rights secured to Dol by state law.

b. That Defendant be required to make Dol whole for its adverse, discriminatory, retaliatory, and unlawful actions through restitution in the form of back pay, with interest of an appropriate inflation factor.

c. That Dol be awarded front pay and the monetary value of any employment benefits he would have been entitled to as an employee of Defendant.

d. That a permanent prohibitory injunction be issued prohibiting Defendant from engaging in the practices complained of in this Complaint.

e. That Dol be awarded compensatory damages in an amount to be determined at trial.

f. That Dol be awarded treble damages where permitted by statute.

g. That the Court award Dol his reasonable attorneys' fees, costs and disbursements where permitted by statute.

h. That the Court grant such other and further relief as it deems fair and equitable.

PLAINTIFF DEMANDS TRIAL BY JURY ON ALL COUNTS WHERE A JURY IS AVAILABLE.

Dated: June 29, 2020

HALUNEN LAW

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ACKNOWLEDGMENT

The undersigned hereby acknowledges that costs, disbursements, and reasonable attorney's fees may be awarded pursuant to Minn. Stat. § 549.211 to the party against whom the allegations in this pleading are asserted.

Dated: June 29, 2020

/s/ Colin J. Pasterski
Colin J. Pasterski