

BEFORE THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS

ALASKA STATE COMMISSION FOR)
HUMAN RIGHTS, PAULA M.)
HALEY, EXECUTIVE DIRECTOR,)
ex rel. JAMES L. BRELAND,)
)
Complainant,)
)
v.)
SEARS ROEBUCK & COMPANY,)
)
Respondent.)
_____)

ASCHR No. J-09-297

ACCUSATION

Paula M. Haley, Executive Director of the Alaska State Commission for Human Rights, *ex rel.* James L. Breland, hereby alleges the following against Respondent Sears Roebuck & Company:

1. Respondent Sears Roebuck & Company (hereinafter “Sears”), is a company incorporated in New York and doing business in Alaska.
2. James L. Breland, who is African-American and male, was employed by Sears as a loss prevention associate at Sears’s retail store located at 700 E. Northern Lights Boulevard in Anchorage, AK from February 22, 2008 to November 20, 2009. As a loss prevention associate, Mr. Breland was responsible for shoplifting investigations and apprehensions.
3. On September 15, 2009, Josh DeWane, a Sears loss prevention associate, initiated what Respondent classified as a non-productive detainment (hereinafter NPD) of a shoplifting suspect. Mr. Breland provided surveillance assistance to Mr.

DeWane during the NPD.

4. Respondent's policy states that "All discontinued detentions/NPD require the completion of an LP Investigation Report by the detaining LP Associate." The policy states that the incident must be documented within twenty-four hours and failure to immediately report an NPD will result in termination.

5. Because the policy referred to the "detaining LP Associate," Respondent's loss prevention associates understood this policy to mean that only the lead loss prevention associate who made the decision to detain the suspect was responsible for the written report.

6. Mr. DeWane advised Mr. Breland that he would report the matter to their supervisor, Angela Miller. Neither Mr. DeWane nor Mr. Breland filed a written incident report.

7. After the suspect detained by Mr. DeWane complained about the detainment to Respondent, Respondent initiated an investigation and, on November 20, 2009, terminated the employment of Mr. DeWane and Mr. Breland for violating company policy by not submitting written incident reports.

8. On November 11, 2009, loss prevention associate Louis Cascanett initiated an NPD. Two other loss prevention associates, Christina Olds and Anthony Bonini, assisted Mr. Cascanett with the NPD.

9. None of the three loss prevention associates filed a written incident report immediately following the NPD.

10. In December 2009, after one of the suspects detained on November 11, 2009, complained about the detainment to Respondent, Respondent initiated an investigation and Ms. Miller advised Ms. Olds to submit a written report at that time.

11. After the investigation, Respondent terminated the employment of Mr. Cascanett and gave Ms. Olds, a white female, lesser discipline for handling her detention too far away from the store exit. No disciplinary action was taken against Ms. Olds for failing to submit a timely report. Similarly, no disciplinary action was taken against Mr. Bonini, a white male, for failing to file a report.

**FIRST CAUSE OF ACTION – TERMINATION BECAUSE OF RACE
A VIOLATION OF AS 18.80.220(a)(1)**

12. Paragraphs 1 to 11 above are realleged and incorporated herein.

13. James L. Breland is a member of a protected class by virtue of his race, African-American.

14. Sears terminated Mr. Breland's employment on the grounds that Mr. Breland violated company policy by failing to report an NPD promptly and in writing.

15. Other Sears employees, who are not African-American and who also failed to report an NPD under similar circumstances, were not terminated.

16. Sears terminated Mr. Breland's employment because of his race, African-American, in violation of AS 18.80.220.

17. Because of Sears's termination of his employment, Mr. Breland has

suffered harm in the form of lost wages.

**SECOND CAUSE OF ACTION – TERMINATION BECAUSE OF SEX
A VIOLATION OF AS 18.80.220(a)(1)**

18. Paragraphs 1 to 11 above are realleged and incorporated herein.

19. James L. Breland is a member of a protected class by virtue of his sex, male.

20. Sears terminated Mr. Breland's employment on the grounds that Mr. Breland violated company policy by failing to report an NPD promptly and in writing.

21. Another Sears employee, who is not male and who also failed to report an NPD under similar circumstances, was not terminated.

22. Sears terminated Mr. Breland's employment because of his sex, male, in violation of AS 18.80.220.

23. Because of Sears's termination of his employment, Mr. Breland has suffered harm in the form of lost wages.

PRAYER FOR RELIEF

Wherefore the Executive Director asks for the following relief:

1. That the Commission issue an order declaring that Respondent Sears violated AS 18.80.220 by discriminating against Mr. Breland on the basis of his race when it terminated his employment.

2. That the Commission issue an order declaring that Respondent Sears violated AS 18.80.220 by discriminating against Mr. Breland on the basis of his sex

when it terminated his employment.

3. That the Commission order Respondent to adopt and disseminate a policy of nondiscrimination under the Alaska Human Rights Law that includes a policy prohibiting discrimination against employees on the basis of race and sex, and a policy prohibiting retaliation for complaining about discrimination.

4. That the Commission order Respondent to obtain in-person training of at least four hours in length for its managers and supervisors on the provisions of the Alaska Human Rights Law that prohibit discrimination in employment, and that such order specify that the trainer and training curriculum be approved by Commission staff prior to the training being conducted.

5. That the Commission order Respondent to eliminate from Mr. Breland's personnel records all documents and entries relating to the facts and circumstances that led to Mr. Breland's filing of the above-captioned charge of discrimination and any of the related events occurring thereafter.

6. That the Commission order Respondent to refrain from penalizing Mr. Breland in any way in future considerations for employment and, if rehired, for transfers, promotions, or upgrading because Mr. Breland complained about discrimination or because he filed a complaint with the Commission.

7. That the Commission order Respondent to refrain from advising or informing any other employer or potential employer of Mr. Breland of the facts or circumstances involved in this case.

