



NEWS REPORT

Date:	15 June 2011
Expert:	O'Farrell Orlagh
Title:	Racial harassment against a sales representative of South African origin
Country:	Ireland
Context	
Issue at stake:	Racial harassment, including an offensive racist joke and denial of promotion
Ground of discrimination:	Race/ ethnic origin
Source:	National equality body DEC-E2011-025
Field:	Employment (access to promotion, harassment)
Legislative provisions:	Sects 8 (1) (d), 14(A) and 14 (A) (2) Employment Equality Acts 1998 - 2008

Content

Case/law/political development: (short summary of facts) DEC-E2011-025 Race, Harassment, Section 14A (2) Defence, Access to Promotion.

This case, involved a sales representative of South African origin and racial harassment, including an offensive racist joke and denial of promotion. The complainant commenced employment with the respondent on 18th July 2005 as a Residential Sales Representative entailing door-to-door (cold-calling) sales. He claimed that he was subjected to consistent verbal harassment on grounds of his race by a colleague and the Regional Sales Manager, and was denied promotion. In relation to the issue of harassment, the Equality Officer was satisfied on the evidence that such incidents did take place and that the complainant brought these formally to the attention of the company. The company did investigate the alleged harassment, but the Equality Officer did not find its investigation objective and impartial but rather was of the view that it had set out to prove the complainant wrong. In relation to the promotion aspect, at the hearing, the Equality Officer asked for the profile of nationalities of field sales representative and of those promoted to Team Coach/Team Leader/Regional Sales Manager. 85% to 90% of approximately 300 Field Sales Representatives were foreign nationals.

There were 19 promotions to team leader since 2007, 16 of these were Irish, 1 was South African (white), 1 was Australian and 1 was British. It was significant that even though foreign nationals made up 85% to 90% of field sales representatives, only 16% of non-Irish nationals were promoted above this level. Regarding length of service before being promoted, the shortest length of service was 7.23 months and the longest was 54.6 months. The complainant was working there 48 months before he went on sick leave due to the effects of the harassment. The Equality Officer accepted evidence that employees on the complainant's team



did not apply for promotions without the imprimatur of the Area Sales Manager, and that promotional vacancies were filled without the complainant being advised by this person of these vacancies. Therefore, the Equality Officer was satisfied that the complainant had established a *prima facie* case that he was not allowed access to promotion in the same way as Irish Nationals were and the respondent failed to rebut this.

The Equality Officer awarded:

- a. €5,000 for the effects of harassment
- b. €10,000 for the effects of discrimination regarding access to promotion.

Internet link source and additional information: (no newspaper links)

<http://www.equalitytribunal.ie/Database-of-Decisions/2011/Employment-Equality-Decisions/DEC-E2011-025-Full-Case-Report.html>