



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Birmingham District Office

March 16, 2022

Ridge Park Place
1130 22nd Street South, Suite 2000
Birmingham, AL 35205
Intake Information Group: 800-669-4000
Intake Information Group TTY: 800-669-6820
Birmingham Direct Dial: (205) 212-2100
FAX (205) 212-2105
Website: www.eeoc.gov

Our Reference:
EEOC Charge No. 420-2021-01744
Charles Ford v. Home Depot

Charles W. Ford
1401 19th Avenue, S.E., Apt. 18
Decatur, AL 35601

Dear Mr. Ford:

This communication acknowledges receipt of your February 21, 2022, letter received by the U.S. Equal Employment Opportunity Commission (EEOC) wherein you express your concerns with the investigation of the above-referenced charge.

We regret your continued dissatisfaction with the processing and dismissal of your charge. In my February 15, 2022, response to you, which is attached for your convenience, I attempted to be fully responsive to your concerns. As I conveyed in that letter, the document which you claim the EEOC "scrubbed" from the portal is in fact contained in your digital file, and the investigator considered it prior to making a recommendation on your charge. I have attached a copy of the document, generated from the digital file, for your reference. Please be assured that we have reviewed the information concerning your charge and believe that the Agency investigated and rendered its decision appropriately.

In view of these efforts and your continued strong opinions in this matter, we do not believe it is possible to offer any further information to convince you that your charge was handled properly. Consequently, any further correspondence, electronic or written, which you may submit on this particular matter will be placed in your closed charge file, but no further review regarding this matter will be forthcoming from this office.

I hope this information is helpful but regret there is nothing further the EEOC can do to assist you in this particular matter.

Sincerely,

A handwritten signature in blue ink that reads "Bradley A. Anderson".

Bradley A. Anderson
District Director

Digitally signed by Bradley A.
Anderson
Date: 2022.03.15 10:20:08
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Attachments



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FEB 15 2022

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Charles W. Ford
1401 19th Avenue, S.E., Apt. 18
Decatur, AL 35601

Dear Mr. Ford:

This letter is written in response to your correspondence received by the U.S. Equal Employment Opportunity Commission (EEOC) on February 3, 2022, wherein you request reconsideration of the Dismissal and Notice of Rights (Notice) issued on January 25, 2022, in the above-referenced charge. In your letter, you express your belief that evidence you provided during the investigation disappeared from the Charging Party Portal. As a result, you indicate your concern that the investigator failed to consider all the evidence you provided before making a recommendation to dismiss your charge.

In your charge, filed May 14, 2021, you alleged that your employer, Home Depot, (“Respondent”) discriminated against you because of your age, 69. Specifically, you alleged Respondent unlawfully failed to promote you from Cashier to Head Cashier. A review of our records indicates that Respondent provided a response (“position statement”) to your allegations on August 19, 2021. In its response, Respondent maintained it did not select you for the Head Cashier position because you were not the most qualified candidate. Specifically, Respondent cited your interview score and your history of performance issues. In contrast, Respondent argued that the person who was selected, Amber Bowers, scored higher in the interview and had no history of performance issues.

Records show the investigator released the position statement to you on August 19, 2021. Review indicates you uploaded several rebuttal documents to the portal on August 31, 2021. Despite the concerns expressed in your letter, the documents you provided in your rebuttal were and are visible in the Portal. In your rebuttal, you disputed Respondent’s position that Amber Bowers was selected for the Head Cashier position, claiming she had been selected for another such position a month prior. In addition, you claimed you had applied for a second Head Cashier position, which remains unfilled. Notably, this is inconsistent with the allegations in your charge. Additionally, in your rebuttal, you conceded some of Respondent claims regarding your performance and disputed others.

In order to find a violation of the Age Discrimination in Employment Act of 1967, as amended, (ADEA), evidence must show that age was the determining factor in an employment decision. In your case, the investigation revealed no evidence to suggest age was a motivating factor at all in Respondent’s decision. In fact, evidence showed Respondent hired you in 2019, at the age of 67. Evidence corroborated Respondent’s position that it did not select you in part because of your

performance history. Evidence did not reveal anyone outside your protected class who had similar performance issues who was selected for this. As such, evidence obtained and reviewed by the EEOC suggested that Respondent's decision was based on a legitimate factor other than age.

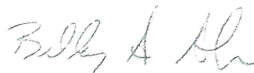
Records indicate the investigator analyzed all the evidence, including your rebuttal materials, before making her assessment of the merits of the charge. On January 24, 2021, she notified you of her intent to recommend dismissal of your charge. Documents show that later that day, you resubmitted your previously uploaded rebuttal and reasserted your belief that Respondent had not filled the position in question because it did not want to promote you. Records show you emailed the investigator the following evening to express concern because you were not able to view your rebuttal documents in the portal, fearing that your file had been "scrubb[ed]". Documents show the investigator replied the following day, correctly explaining that the EEOC was transitioning to a new system and assuring you that the documents were indeed there.

My review indicates that the EEOC followed the correct procedure in investigating and dismissing your charge against Home Depot. Please be assured that all evidence which you provided was received and reviewed prior to the investigator's recommendation. Your charge was dismissed because it was determined that no further investigation was warranted.

The Notice issued on January 25, 2022, concluded the administrative processing of your charge, and stands as the Commission's determination on the merits of the subject charge. The Notice described your right to pursue the matter further by filing a lawsuit in federal court within 90 days of your receipt of the Notice. This 90-day period for filing a private lawsuit cannot be waived, extended, or restored by the Commission.

I hope this information is helpful to you.

Sincerely,



Bradley A. Anderson
District Director

Digitally signed by Bradley A.
Anderson
Date: 2022.02.14 18:09:53
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