

THE COMMONWEALTH OF MASSACHUSETTS
COMMISSION AGAINST DISCRIMINATION

MASSACHUSETTS COMMISSION)
AGAINST DISCRIMINATION and)
ALBA BAEZ)
Complainant)
v.) Docket No. 97-BPR-4215
THEOPHILIUS UNAEGBU and)
CHRISTINE ONUKWAGWA)
Respondents)

Appearances:

Geoffrey DuBosque, Esq., for Complainant
Joseph Franzese, Esq., for Respondents Unaegbu and Onukwagwa

DECISION OF THE HEARING OFFICER

I. PROCEDURAL HISTORY

On November 12, 1997, Complainant Alba Baez filed a complaint with the Massachusetts Commission Against Discrimination (hereafter: the Commission). The complaint charged Respondents Theophilus Unaegbu and Christine Onukwagwa with discrimination based on her national origin (Hispanic) and status as a Section 8 recipient in violation of G.L. c. 151B, §4, paragraphs 6 and 10. Complainant alleged that Respondents Unaegbu and Onukwaga harassed, coerced and intimidated her and interfered with her tenancy at 103 Lamartine Street, Jamaica Plain, Massachusetts in an attempt

to force her to move out.

Attempts to conciliate this matter were unsuccessful. On June 9, 1998, Commissioner Douglas T. Schwarz certified this case for a public hearing.

I held a public hearing on August 28, 2002. On September 12, 2002, Complainant filed a post-hearing memorandum with the Commission that included proposed findings of fact, conclusions of law and remedies.

I have carefully reviewed and considered the entire record before me, including the testimony, all exhibits, proposed findings of fact, conclusions of law and supporting argument. To the extent the proposed findings and conclusions of law are not in accord with my findings and conclusions, they are rejected. I have omitted certain proposed findings and conclusions of law as not relevant or unnecessary to a proper determination of the material issues presented. I have modified other findings and conclusions of law to render them acceptable. Based on the credible evidence in the public hearing record and reasonable inferences therefrom, I make the following findings of fact, conclusions of law and order.

II. FINDINGS OF FACT

1. Complainant, Alba Baez, is Hispanic and has four children, ages 2, 8, 13 and 17. Complainant currently lives in New Jersey with her family.

2. Sometime in 1990, Complainant moved to 103 Lamartine Street, Apartment No. 2, Jamaica Plain, Massachusetts, with her two oldest children, then ages 1 and 4. During her tenancy at 103 Lamartine Street, Complainant received Section 8 housing (rental) assistance payments. Her monthly rental amount was \$900 or \$950. Complainant lived at 103 Lamartine Street until she moved to Hyde Park, Massachusetts, on or about December 31, 1997.

3. Respondents Theophilus Unaegbu and Christine Onukwagwa were born in Nigeria and came to the United States in 1987 and 1990, respectively. Respondents Unaegbu and Onukwagwa were married on August 9, 1997 and have one child (age 4).

4. Respondent Unaegbu purchased the apartment buildings located at 101 and 103 Lamartine Street, Jamaica Plain, Massachusetts, in August and May 1995, respectively. Each building has three apartment units.

5. Respondent Onukwagwa is not listed on the deeds for the property located at 101 and 103 Lamartine Street.¹ Respondent Onukwagwa testified that she did not have any dealings with the tenants at 101 and 103 Lamartine Street. She also testified that her responsibilities related to the apartment buildings were limited to paying the mortgages, collecting the rents and arranging for repairs, as necessary.

¹ In his deposition taken on June 8, 2000, Respondent Unaegbu testified that he was the sole owner of the apartment buildings at 101 and 103 Lamartine Street. (Complainant's Exhibit 5, page 11, line 23 to page 12, line 1). In addition, a Boston Housing Inspection Department's notice of violation, dated July 7, 1997, identified Respondent Unaegbu as the owner of the subject premises. (Complainant's Exhibit No. 6).

6. When Respondent Unaegbu purchased the apartment buildings at 101 and 103 Lamartine Street, five of the six tenants were Hispanic and received Section 8 housing assistance payments. These tenants included Complainant, Mariluz Mello, Ivelisse Nova and Amarilis Baez (no relation to Complainant).

7. In or about August 1995, Respondents Unaegbu and Onukwagwa moved into 101 Lamartine Street, Apartment No. 3.

8. Complainant testified that her relationship with Respondent Unaegbu was "good" for a short time after he purchased 103 Lamartine Street. Complainant testified credibly that, beginning in 1996 and continuing through 1997, Respondent Unaegbu harassed, coerced, intimidated her and/or interfered with her use of her apartment at 103 Lamartine Street in an unsuccessful attempt to force her to move.

Respondent Unaegbu's Alleged Derogatory Statements

9. Complainant testified that Respondent Unaegbu repeatedly made derogatory comments about her national origin in front of her children and Ms. Mello. Complainant testified that Respondent Unaegbu called her a "f---ing Spanish prostitute" several times between 1995-1997, beginning within three or four months of his purchase of the property at 101 and 103 Lambertine Street. Complainant testified that these comments made her feel embarrassed, sad and depressed. Complainant also testified that she heard Respondent Unaegbu make similar derogatory comments toward Amarilis Baez. I credit Complainant's testimony that Respondent Unaegbu made these remarks.

10. I also credit Complainant's testimony that Mr. Unaegbu told her that he did not want Hispanics living in his apartments because they did not speak English. Complainant testified credibly that Respondent Unaegbu made this statement within six months after he moved into 101 Lamartine Street

11. Complainant testified that Respondent Unaegbu repeatedly told her that he did not want Ms. Baez or her sister to visit with Complainant in her apartment. Complainant did not recall when Respondent Unaegbu first told her not to associate with Ms. Baez but she recalled that his statements began within six months after he moved into 101 Lamartine Street. I credit Complainant's testimony.

12. Respondent Unaegbu denied making any derogatory statements towards Complainant based on her national origin or status as a recipient of Section 8 housing assistance. Respondent Unaegbu also denied telling anyone at the Boston Housing Authority (BHA) that he did not like Spanish people or that he did not want to rent to Section 8 recipients. I do not credit Respondent Unaegbu's testimony.

13. Respondent Unaegbu testified that Complainant repeatedly told him that "Africans could not own property" in the United States. He also testified that Complainant and other tenants referred to him several times as "the black African who came to America to buy a house." Respondent Unaegbu also testified that Complainant called Respondent Onukwagwa a "prostitute" several times.

14. Respondent Onukwagwa testified that she overheard Complainant call her a "prostitute or whore" on one occasion.

Respondent Onukwagwa also testified that Complainant made this comment during the only face-to-face meeting that she had with Complainant.

Restrictions on Complainant's Use of and Access to Basement

15. Complainant testified that, sometime in 1996-1997, Respondent Unaegbu told her that "if she did not move out, he would make her life impossible."

16. Prior to May 1995, Complainant had access to the basement at 103 Lamartine Street where she stored personal property and an air conditioner in a small room. Complainant also had access to a washer and dryer in the basement. Within three months after Respondent Unaegbu purchased the apartment building, he restricted Complainant's access to the basement by installing a metal gate and locking it. I credit Complainant's testimony that Respondent Unaegbu limited her access to the basement at 103 Lamartine Street and did not give her any reasons for his actions.

17. Prior to May 1995, Complainant also had access to the boilers in the basement and could fix them if she lost heat because the pilots were extinguished. Complainant testified that she lost heat and hot water three or more times a week, beginning in the winter of 1995 and continuing into 1996-1997. As a result, Complainant and her family showered in Ms. Mello's apartment. Complainant testified that she called Respondent Unaegbu who told her that it was not "his problem." I credit Complainant's testimony.

18. Complainant and Respondent Unaegbu testified that she called the Boston Police Department and the Boston Housing Inspection Department (BHID) many times during 1996-1997 regarding Respondent Unaegbu's continued restriction of her access to the basement at 103 Lamartine Street and a lack of heat and/or hot water.

19. Respondent Unaegbu testified that he installed the locked gate because Complainant repeatedly shut off the pilots on the heaters and cut the washing machine hose. Respondent Unaegbu claims that the basement door was locked on only one day because he immediately removed the lock when the BHID told him that he had "no right" or "authority" to install a locked gate on the basement entrance. I do not credit Respondent Unaegbu's testimony.

20. On or about July 2, 1997, a housing inspector for the City of Boston inspected the basement at 103 Lamartine Street. She cited Respondent Unaegbu for the following violations: "no lighting (exterior), no access to basement and no hot H2O." (Complainant's Exhibit No. 6).

Respondent Unaegbu's Attempts to Evict Complainant

21. Respondent Unaegbu testified that Complainant told him and Respondent Onukwagwa on August 23, 1996 that she would "destroy" his property. I do not credit Respondent Unaegbu's testimony.

22. On August 24, 1996, Respondent Unaegbu filed an incident report with the Boston Police Department regarding vandalism he found in the common hallway in front of Complainant's

apartment. The vandalism included black spray paint on the common hallway walls and door, a hole in the hallway wall and insulation "ripped out" in the basement area. (Respondent's Exhibit No. 1). Respondent Unagebu did not see Complainant commit any of these acts of vandalism.

23. Respondent Unaegbu testified that he called Complainant on August 24, 1996 and confronted her about the vandalism he believed she committed in the common hallway in front of Complainant's apartment. Respondent Unaegbu testified that Complainant said, "I told you that I would destroy your property."

24. Complainant denied that she told Respondent Unaegbu that she would destroy his house. Complainant also denied that she spray-painted in the hallways at 103 Lamartine Street or that she knew who had committed such acts. I credit Complainant's testimony.

25. On or about August 28, 1996, Respondent Unaegbu's attorney, sent Complainant a 30-day notice to quit and deliver her apartment on or before October 1, 1996. (Complainant's Exhibit No. 1). On or about October 28, 1996, Respondent Unaegbu caused Complainant to be served with a summary process summons and complaint requiring her to appear at a hearing on November 14, 1996. The reasons listed for termination of Complainant's lease were "chronic late payments, destruction of property, additional people living in the apartment, and wallpapering without landlord's permission." (Complainant's Exhibit No. 2). Complainant was not evicted based on this summary process complaint.

26. After Respondent Unaegbu moved into 101 Lamartine Street, he testified that he saw Complainant's three children and her then boyfriend living with her in the apartment during 1995-1996. Respondent Onukwagwa testified that she also saw Complainant's boyfriend living in her apartment and that he helped her fix items in various apartments. Respondent Unaegbu also testified that he saw Complainant's mother stay overnight in Complainant's apartment at least once or twice a week. He testified that Complainant's boyfriend and mother were not listed on Complainant's Section 8 rental application.

27. Complainant denied that she was chronically late with her portion of the monthly rental payment or that she destroyed property at 101 or 103 Lamartine Street. Complainant also denied that her mother and cousin lived with her in the apartment. Complainant testified that she gave a copy of her mother and cousin's written leases to the Boston Section 8 Unit to establish that they did not live with her. Complainant also denied that she wallpapered in her apartment from Respondent Unaegbu's purchase of the property until she moved out. Prior to May 1995, Complainant placed borders on the living room ceiling in her apartment unit. I credit Complainant's testimony.

28. On or about September 30, 1996, Complainant fell down the hallway stairs at 103 Lamartine Street. She sustained injuries for which she received medical treatment.² Respondent Unaegbu alleged that Complainant caused her injury by removing the screws in the hallway railing.

² Complainant filed a lawsuit against Respondent Unaegbu based on her injuries and settled her claim with his insurance carrier.

29. Shortly before the fall of 1997, Respondent Unaegbu filed a criminal complaint against Complainant for allegedly destroying his property. Complainant testified that a clerk-magistrate dismissed the criminal complaint after a hearing.

30. On or about February 20, 1997, Respondent Unaegbu's attorney sent Complainant another a 30-day notice to quit and deliver her rental unit no later than March 31, 1997. The letter described the reason for terminating Complainant's lease as the "Owner's desire to use the premises for his family that has migrated from Nigeria and require a place to live." (Complainant's Exhibit No. 3). On or about May 15, 1997, Complainant received a summary process summons and complaint from Respondent Unaegbu notifying her of a hearing on June 7, 1997. (Complainant's Exhibit No. 3). Complainant was not evicted based on this summary process complaint.

31. Respondent Unaegbu testified that he wanted to evict Complainant so that he could move in his brother and sister, Edmond and Dorothy Unaegbu, who wanted to migrate from Nigeria in 1997. Respondent Unaegbu's brother and sister did not move into Complainant's apartment when she left in 1997 or into any other apartment at 101 or 103 Lamartine Street.

32. Sometime during 1997, Ms. Mello and Ms. Nova moved out of their rental units prior to Complainant. Complainant believes Ms. Mello and Ms. Nova left because of they had "problems" with Respondent Unaegbu.

33. Respondent Unaegbu testified that, beginning in 1997, he unsuccessfully attempted to evict Amarilis Baez from Apartment Unit No. 3 at 101 Lamartine Street because he wanted a vacant

apartment for his brother and sister who were coming from Nigeria. When Amarilis Baez voluntarily vacated her apartment unit in late 1997, Respondent Unaegbu rented it to an African-American woman who was not a recipient of a Section 8 housing subsidy.³

34. On December 30, 1997, an unknown person fired three shots at Complainant and her cousin as they were entering the front door to 103 Lamartine Street. Complainant's cousin was struck in the groin and his left arm. Respondent Unaegbu testified that Respondent Onukwagwa and his daughter heard the shots and were "scared." (Respondent's Exhibit No. 3).

35. On January 4, 1998, Respondent Unaegbu placed an advertisement in the Boston Globe regarding an apartment unit at 103 Lamartine Street. The advertisement indicated that "Sect. 8 ok." (Respondent's Exhibit No. 4).

36. Respondent Unaegbu currently has 5 tenants at 101 and 103 Lamartine Street: one is Hispanic and one receives Section 8 housing assistance. Respondent Unaegbu also testified that he continues to accept Section 8 housing. (Respondent's Exhibit 5).

III. CONCLUSIONS OF LAW

G.L. c. 151B, §4(6) prohibits, inter alia, an owner from discriminating against any person because of his or her national origin in the terms, conditions or privileges of a "multiple dwelling or contiguously located housing accommo-

³ Respondent Unaegbu testified that the successor tenant may have received another (unidentified) form of housing assistance.

dations." The term "multiple dwelling" means a dwelling that "is usually occupied for permanent residence purposes and which is rented, leased, let or hired out, to be occupied as the residence or home of three or more families living independently of each other." G.L. c. 151B, §1(11). Since Respondent Unaegbu's property at 103 Lamartine Street has three apartment units, it falls within the jurisdiction of G.L. c. 151B. Watson v. A & C Realty, 19 MDLR 65 (1996); Samuel v. Bott-Well, et. al., 18 MDLR 155 (1996). In addition, G. L. c. 151B, §4(10), also makes it unlawful for any person "furnishing rental accommodations to discriminate against anyone who is a recipient of federal, state or local housing subsidies . . . including rental assistance or rental subsidies because such individual is such a recipient or because of any requirement of such . . . rental assistance or housing subsidy program."

Illegal discrimination based on Complainant's national origin and status as a Section 8 recipient can include a refusal to rent available housing, the existence of disparate terms and conditions of occupancy once a tenancy is established and eviction. Pacheco v. Cannella, 21 MDLR 152 (1999); Curry & Hayes v. Allessio, 18 MDLR 155 (1999). Here Complainant alleges that Respondents Unaegbu and Onukwagwa harassed, intimidated and subjected her to a hostile living environment characterized by offensive language based on her national origin and their refusal to furnish adequate services such as heat and hot water because of her national origin and Section 8 status. Complainant also contends that Respondent Unaegbu's attempts to formally evict her were a pretext for intentional discrimination based on her national origin and Section 8 status.

The burden of proving a violation of G.L. c. 151B rests with Complainant. The framework for determining whether unlawful discrimination has occurred is set forth in Wheelock College v. Massachusetts Commission Against Discrimination, 371 Mass. 130 (1976) and its progeny. See also Abramian v. Presidents and Fellows of Harvard College, 432 Mass. 107 (2000); Weber Community Teamwork, Inc., 434 Mass. 761, 775-776 (2001); Lipchitz v. Raytheon Company, 434 Mass. 493, 501-502 (2001). Although Wheelock College was a case of employment discrimination, the Commission has consistently applied the standard set forth therein to housing discrimination cases. See Snelders v. Boston Housing Authority, 23 MDLR 399 (2001); Pacheco v. Cannella, 21 MDLR 152 (1999); Rivera v. Djordjeraic, 15 MDLR 1058 (1993).

The elements of a prima facie case of housing discrimination will vary according to the facts and circumstances of the alleged discrimination. Baker v. Collazo, 5 MDLR 1001, 1006 (1983). To establish a hostile living environment claim because of harassment based on Complainant's national origin and status as a Section 8 recipient, Complainant must show that: (1) she is a member of a protected class based on her national origin and Section 8 status; (2) Respondents Unaegbu and Onukwagwa subjected Complainant to harassment based on her national origin and Section 8 status; (3) the adverse or disparate treatment was based on Complainant's national origin and Section 8 status; (4) the harassment was sufficiently pervasive and severe as to create living conditions disparate from those provided to similarly situated persons not of Complainant's protected classes. See Curry & Hayes v.

Allessio, supra.; Dodson v. Sandpoint, 20 MDLR 67 (1998); Roy v. O'Brien, 2 MDLR 1259 (1980).

I find that Complainant has met her burden of establishing a prima facie case of a hostile living environment at 103 Lamartine Street during 1995-1997. Complainant has proven that she is a member of a protected class within the meaning of G.L. c. 151B, §§4(6) and (10) based on her national origin (Hispanic). Complainant has also proven that she was a recipient of a Section 8 housing voucher or subsidy at all times during the period relevant to the instant complaint. In addition, Complainant has established that Respondent Unaegbu engaged in repeated conduct that a reasonable person would interpret as harassment. Complainant testified credibly that Respondent Unaegbu repeatedly made derogatory comments and epithets about her national origin during 1995-1997 and stated his desire not to have Hispanic tenants because they did not "speak English." Complainant also testified credibly that Respondent Unaegbu made similar derogatory comments to Amarilis Baez, another Hispanic tenant who also had a Section 8 housing subsidy.

The uncontroverted evidence also demonstrates that Complainant's living conditions were unsatisfactory and unsafe. Complainant testified credibly that, beginning in May 1995, Respondent Unaegbu unlawfully restricted her access to the basement at 103 Lamartine Street and subjected her to repeated losses of heat and/or hot water. Despite Complainant's attempts to rectify these conditions by repeatedly calling the Boston Police Department and the BHID, I credit her testimony that these violations continued unabated through July 1997.

Instead of correcting the inadequate and unsafe conditions at 103 Lamartine Street, Respondent Unaegbu filed an unsubstantiated police report against Complainant in August 1996 alleging that Complainant vandalized the common areas in 103 Lamartine Street. Respondent Unaegbu also filed a criminal complaint against Complainant that was dismissed sometime during the fall of 1997. I also find that Respondent Unaegbu attempted to constructively evict Complainant by unsuccessfully attempting to evict her in August 1996 and June 1997. Accordingly, I find that Complainant has established a prima facie case of a hostile living environment because of her national origin and Section 8 status when Respondent Unaegbu directed derogatory comments toward her, limited her access to the basement at 103 Lamartine Street, refused to furnish basic services and attempted to evict her twice.

Once Complainant establishes a prima facie case, the burden shifts to Respondent Unaegbu to produce evidence of non-discriminatory reasons for his actions. The burden then shifts back to Complainant to prove by a preponderance of the evidence that Respondent Unaegbu acted with a discriminatory intent, motive or state of mind based on her national origin and status as a Section 8 recipient. See Weber v. Community Teamwork, Inc., 434 Mass. 761, 775-776 (2001); Lipchitz v. Raytheon Company, 434 Mass. 493, 501-502 (2001); Blare v. Husky, 419 Mass. 437, 443 (1995).

I find that Respondent Unaegbu has failed to articulate legitimate, non-discriminatory reasons for his actions. I also find that Respondent Unaegbu's testimony was incon-

sistent, contradictory and not credible. For example, Respondent Unaegbu's testimony that he only limited Complainant's access to 103 Lamartine Street on one occasion is contrary to his testimony that Complainant called the BHID many times during 1996-1997 for a lack of access and hot water or heat. In addition, the BHID report, dated July 2, 1997, cited Respondent Unaegbu for "no access to basement," among other violations. (Complainant's Exhibit No. 6). Respondent Unaegbu testified that he attempted to evict Complainant in June 1997 because he wanted a vacant apartment for his siblings. The undisputed evidence in the record shows, however, that Respondent Unaegbu never rented Complainant's apartment or any other unit at 101 or 103 Lamartine Street to his siblings.⁴ An additional example of Respondent Unaegbu's lack of truthfulness occurred when he testified that Respondent Onukwagwa and his daughter were "scared" during the shooting at 103 Lamartine Street on December 30, 1997. The evidence in the hearing record shows that Respondent Unaegbu's daughter was not yet born when this incident occurred.

There is also no evidence in the record to support any of Respondent Unaegbu's purported reasons for his two unsuccessful attempts to evict Complainant. Respondent Unaegbu produced no credible evidence that Complainant was chronically late in her rental payments during the relevant period or that she destroyed property in the common areas at 103 Lamartine Street. Respondent Unagebu also failed to produce any objective evidence to support his claim that there were "additional people living in the apartment."

⁴ Respondent Unaegbu offered the same justification for his attempts in 1997 to evict Amarilis Baez from 103 Lamartine Street, apartment 3. Like Complainant's apartment, Respondent Unaegbu ultimately rented Ms. Baez's unit to a non-Hispanic woman who was not a recipient of a Section 8 rental subsidy.

I also conclude that Respondent Unaegbu's actions directed at Amarilis Baez, including his verbal comments based on her national origin and his attempts to evict her, support Complainant's contention that he was motivated by an unlawful animus based on Complainant's nation origin and Section 8 status. Respondent Unaegbu's record of rentals since 1995 at 101 and 103 Lamartine Street is also consistent with my finding that he was motivated by Complainant's national origin and Section 8 status. When Respondent Unaegbu purchased the subject apartment buildings, five of the six tenants were Hispanic and received Section 8 housing assistance payments. (Finding of Fact 6). By the date of the hearing in this case, only one of five tenants was Hispanic and only one received a Section 8 housing subsidy.⁵

For all the reasons discussed above, I conclude that Respondent Unaegbu discriminated against Complainant based on her national origin and status as a Section 8 recipient in violation of G.L. c. 151B, §§4(6) and (10). I also find that Respondent Onukwagwa did not participate in any of the acts of unlawful harassment committed by Respondent Unaegbu. Since the undisputed evidence in the record established that Respondent Onukwagwa is not a co-owner of the apartment buildings at 101 and 103 Lamartine Street, I further conclude that she is not individually or jointly liable for Respondent Unaegbu's unlawful discrimination established under the facts

⁵ In the Commission's determination of Probable Cause, dated April 6, 1998, the Commission investigator reported that Jean Taylor, a representative of the Boston Housing Authority, reported that Respondent Unaegbu stated, in her presence, that he "did not want to rent to recipients of Section 8." While Respondent Unaegbu denied making this statement, I do not find him credible. In addition, I find that this statement is certainly consistent with his conduct and record of rentals after he purchased the properties at 101 and 103 Lamartine Street.

of this case. See e.g., Williams v. Everett and Hunt, 21 MDLR 84 (1999); Luna v. Lynch et. al, 7 MDLR 1699, 1725 (1985).

Upon a finding of discrimination, the Commission is authorized to award damages resulting from Respondent Unaegbu's unlawful discrimination, including Complainant's emotional distress. G.L. c. 151B, §5. See Labonte v. Hutchins & Wheeler, 424 Mass. 813, 824 (1997); Bournewood v. Massachusetts Commission Against Discrimination, 371 Mass. 303, 315-16 (1976). An award of monetary damages is appropriate to compensate Complainant for the emotional distress she suffered as a victim of the Respondent's unlawful discrimination. See e.g., Baldelli v. Town of Southboro Police Dept., 17 MDLR 1541 (1995). A finding of discrimination, by itself, permits an inference of emotional distress as a normal adjunct of such discrimination. Labonte v. Hutchins & Wheeler, 424 Mass. 813, 824, quoting Buckley Nursing Home, Inc. v. Massachusetts Commission Against Discrimination, 20 Mass. App. Ct. 172, 182 (1985). Expert testimony is not necessary to prove emotional distress damages. College-Town, Division of Interco v. Massachusetts Commission of Discrimination, supra. at 169 (1987); Franklin Publishing v. Massachusetts Commission Against Discrimination, 25 Mass. App. Ct. 947 (1988). Permissible considerations to measure and compensate for emotional distress include such factors as the nature, severity, and duration of Complainant's emotional distress. See Baldelli v. Town of Southboro Police Dept., 18 MDLR 167, 169 (1996).

I conclude that Complainant is entitled to damages for emotional distress resulting from the Respondents' unlawful discrimination based on her national origin and status as a Section 8 recipient. Complainant testified credibly regarding

how Respondent Unaegbu's unlawful conduct affected her mentally and physically. Complainant testified that Respondent Unaegbu's actions made her feel embarrassed, sad and depressed. I am persuaded that Complainant's emotional harm was a direct result of Respondent Unaegbu's unlawful acts. Based on the relative severity and duration of Complainant's emotional distress, I award Complainant \$5,000 to compensate her for the emotional harm she suffered.

IV. ORDER

Based on the foregoing findings of fact and conclusions of law, I hereby issue the following order:

1. Respondent Theophilus Unaegbu shall immediately cease and desist from discriminating in housing against tenants who are Hispanic and/or are recipients of rental assistance in violation of G.L. c. 151B, §§4(6) and (10), relative to any rental property he owns.
2. Respondent Theophilus Unaegbu shall pay Complainant the sum of \$5,000 in emotional distress damages plus interest thereon at the statutory rate of 12% per annum from the date of filing the complaint until such date as the payment is made or this obligation is reduced to a court judgment and post-judgment interest begins to run. Respondent Theophilus Unaegbu shall pay this sum to Complainant within 60 days of his receipt of this decision.
3. The complaint against Respondent Onukwaga is dismissed.

4. The parties shall immediately notify the Clerk of the Commission when Respondent Theophilus Unaegbu makes the ordered payment.

This constitutes the final order of the Hearing Officer. Any party aggrieved by this decision may file a Notice of Appeal with the Full Commission within ten (10) days of receipt of this order and a Petition of Review with the Full Commission within thirty (30) days of receipt of this Order.

SO ORDERED this 3rd day of July, 2003.

KENNETH B. GROOMS
Hearing Officer