

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

V.

LOWE'S HOME CENTERS, INC., d/b/a
VONORE RELOAD DISTRIBUTION CENTER #970

Defendant.

CIVIL ACTION NO.
3:04-cv-133

AMENDED COMPLAINT

JURY TRIAL DEMANDED

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., and Title I of the Civil Rights Act of 1991, 42 U.S.C. §1981a, to correct unlawful employment practices based upon race and to provide appropriate relief to Tiffany Carter, Curtis Carter (“Charging Parties”), and a class of African Americans who have been adversely affected by such practices. The Commission alleges that Defendant Lowe’s Home Centers, Inc., d/b/a Vonore Reload Distribution Center #970 (“Lowe’s”), failed to hire the Charging Parties and a class of other African American applicants because of their race, in violation of Title VII.

JURISDICTION

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. ~~§§~~451, 1331, 1337, 1343, and 1345. This is an action authorized and instituted pursuant to §

706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.* ("Title VII") and § 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the Eastern District of Tennessee, Knoxville Division.

PARTIES

3. Plaintiff, Equal Employment Opportunity Commission (the "Commission") is an agency of the United States of America charged with the administration, interpretation, and enforcement of Title VII and is expressly authorized to bring this action by §706(f)(1) and (3) of Title VII, 42 U.S.C. §2000e-5(f).

4. At all relevant times, Defendant, Lowe's Home Center's, Inc., d/b/a Vonore Reload Distribution Center #970, (hereinafter "Lowe's") was doing business in the State of Tennessee, and has continuously had at least fifteen (15) employees.

5. At all relevant times, Defendant has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of §701(b), (g), and (h) of Title VII, 42 U.S.C. §2000e(b), (g), and (h).

STATEMENT OF CLAIMS

6. More than thirty (30) days prior to the institution of this lawsuit, Tiffany Carter and Curtis Carter filed charges with the Commission alleging that Defendant engaged in employment practices at the Reload Distribution Center in Vonore, Tennessee in violation of Title VII, as amended, 42 U.S.C. §2000e-2(a). All conditions precedent to the institution of this lawsuit have been fulfilled.

7. During the period of August 2002, and continuing, Defendant engaged in

unlawful employment practices at the Reload Distribution Center in Vonore, Tennessee. The unlawful employment practices included, but were not limited to, a pattern and practice of refusing to hire qualified African American applicants because of their race.

8. Tiffany Carter, an African American female, sought employment on numerous occasions in the warehouse at the Reload Distribution Center.

9. Tiffany Carter was referred by the Tennessee Department of Employment Security about vacancies at Defendant's Vonore Reload Distribution Center.

10. Beginning in June 2001 and continuing through August 2002, Tiffany Carter applied for employment, continued to submit applications, and contacted Defendant seeking employment at the Vonore Reload Distribution Center.

11. Tiffany Carter was qualified for the positions at issue.

12. Curtis Carter, an African American male, sought employment on numerous occasions in the warehouse at the Vonore Reload Distribution Center.

13. Curtis Carter was referred by the Tennessee Department of Employment Security about vacancies at Defendant's Vonore Reload Distribution Center.

14. Beginning in June 2001 and continuing through August 2002, Curtis Carter applied for employment, continued to submit applications, and contacted Defendant seeking employment at the Vonore Reload Distribution Center.

15. Curtis Carter was qualified for the positions at issue.

16. During the Commission's investigation, it was also revealed that other African American employees sought employment in the Summer and Fall of 2002. Although they were qualified, Defendant rejected them for employment.

17. Defendant hired more than forty applicants from January 2002 until February 2003 at the Vonore Reload Distribution Center.

18. Defendant did not hire a single African American applicant for employment at the Vonore Reload Distribution Center.

19. The practices complained of above were and are in violation of §§ 703(a) of Title VII, as amended, 42 U.S.C. §§ 2000e-2(a).

20. The effect of the practices complained of above has been to deprive African Americans of equal employment opportunities and otherwise adversely affect their status as employees because of their race.

21. Curtis Carter, Tiffany Carter and the other aggrieved individuals suffered emotional and psychological harm as the result of the disparate treatment in hiring.

22. Defendant at all relevant times has been acting with malice or reckless indifference to the federally protected rights of Curtis Carter, Tiffany Carter, and African Americans as a class because of their race.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully prays that this Court:

A. Grant a permanent injunction enjoining the Defendant Employer, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in any employment practice which discriminates because of race.

B. Order Defendant Employer to institute and carry out policies, practices and programs which provide equal employment opportunities for African Americans which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer to make whole Curtis Carter, Tiffany Carter, and a class of other African Americans by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.

D. Order the Defendant to make whole Curtis Carter, Tiffany Carter, and a class of other African Americans by providing compensation for pecuniary losses in amounts to be determined at trial.

E. Order the Defendant to make whole Curtis Carter, Tiffany Carter, and a class of other African Americans by providing compensation for nonpecuniary losses, including emotional pain, suffering, inconvenience and mental anguish in amounts to be proven at trial.

F. Order Defendant Lowe's to pay punitive damages for its malicious and/or reckless conduct, in an amount to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper.

H. Award the Commission its costs in this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by the Complaint.

Respectfully submitted,

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