

**BEFORE THE HUMAN AND CIVIL RIGHTS COMMISSION
FOR THE STATE OF DELAWARE**

Haeng Lee,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. NC-EA-3222-25
	)	
St. Anthony Senior Center, et. al.,	)	
	)	
Respondents.	)	

MEMORANDUM DECISION AND ORDER

PRESENT:

Dwayne Bensing, *Commissioner and Panel Chairperson*
Gail Launay, *Commissioner and Panel Member*
Deborah Street, *Commissioner and Panel Member*
Victoria Counihan, *Deputy Attorney General, Counsel for the
Commission and Panel*

APPEARANCES:

Haeng Lee, *Complainant, pro se*
Moo Kim Young, *Translator for Complainant (Korean language)*
Donald Gouge, Esq., *Attorney for Respondents*

INTRODUCTION

After due notice of time and place duly served upon all parties, the above-captioned case came before a Panel (“Panel”) of the Delaware Human and Civil Rights Commission (the “Commission”) on Tuesday, December 9, 2025, via Microsoft Teams video conference, to determine whether a violation of Delaware Equal Accommodations Law (“DEAL”), codified at 6 *Del. C.* Ch. 45, occurred.

The Panel convened to determine whether St. Anthony Senior Center, located at 1703 West 10th Street, Wilmington, DE 19801 (the “Senior Center”), and “Supt. or Manager” (collectively with the Senior Center, the “Respondents”), violated 6 *Del. C.* § 4504 as alleged in the complaint (the “Complaint”) filed by Haeng Lee (“Mr. Lee” or “Complainant”), who claimed that the Respondents discriminated against him based on his national origin (Korean) and sex (male), including sexual harassment.

The Panel conducted its deliberations immediately after the hearing on December 9, 2025, and followed with a public vote on that date. This Memorandum Decision and Order embodies the Panel’s Findings of Fact and Conclusions of Law, as required by statute. 6 *Del. C.* § 4508(h).

SUMMARY OF THE COMPLAINT

In his Complaint, Mr. Lee alleged that Respondents refused, withheld, and/or denied him accommodations, facilities, advantages, or privileges of a place of public accommodation because of his national origin (Korean) and sex (male), and he experienced sexual harassment while attending the Senior Center. The Complaint alleges that starting in September 2024, another member at the Senior Center made derogatory gestures and threats toward Mr. Lee over several months, which Mr. Lee reported to the Respondents but received no corrective response. The Complaint

also alleges Mr. Lee faced unfair treatment, such as having his bingo seat taken and witnessing staff overlook misconduct by others, while his concerns were ignored. The Complainant escalated the issue to the Wilmington Police Department in May and July of 2025.

In May 2025, Mr. Lee reported to the Senior Center that he had been sexually harassed by a female member on two consecutive days, but his complaint was dismissed, which he believes was because of his gender/sex. The Complainant alleged that he was told in July 2025 by the Director of the Senior Center that there was no CCTV video footage and that he was instructed to collect his belongings and not return, effectively denying him access to the facility. The Complainant claims he was discriminated against based on his national origin (Korean), sex (male), and sexual harassment, resulting in the denial of services and protections under Delaware's Equal Accommodation law.

PRELIMINARY MATTERS

Respondents' attorney requested that the Commission issue testimony subpoenas to two Wilmington Police Department officers, which were issued by the Commission staff. The two Wilmington Police Department officers were not present at the hearing. Although the Commission Regulations allow the

Commission to compel testimony, Respondents agreed to proceed with testimony and determine if the testimony of the subpoenaed witnesses was necessary.

Respondents' attorney also requested that the Commission subpoena two police reports from the Wilmington Police Department. Only one police report was submitted by the police to the Commission.

Complainant objected to his receipt of Respondents' hearing exhibits by mail on December 2, 2026, which he argued should have been sent by email. Complainant objected because Respondents' report of his removal from the bingo area was missing from Respondents' exhibits. Complainant objected to Respondents' CCTV video, claiming they checked for the wrong date. Complainant made an oral Motion to disregard all of Respondents' documentary evidence. The Panel Chair denied the Motion and all pending objections to Respondents' exhibits, but allowed Complainant to challenge each document during cross examination of witnesses.

BRIEF SUMMARY OF THE EVIDENCE¹

During the hearing, Complainant offered into evidence, without objection², the following documents, which the Panel Chair admitted into evidence:

- (a) Compilation of documents, marked as Complainant's Exhibit 1 (12/4/25 letter to Senior Center from Mr. Lee; 2/28/25 letter to Senior Center from Mr. Lee; Senior Center Report Date Detail; Response to Equal Accommodations of the Law Complaint by Respondents; Bingo Participant Certification; Physical Fitness Schedule; Undated letter to Senior Center from Mr. Lee; 2/28/25 letter to Senior Center from Mr. Lee; 4/14/25 letter to Senior Center from Mr. Lee; 5/16/25 letter to Senior Center from Mr. Lee; 5/19/25 letter to Senior Center from Mr. Lee; 5/27/25 letter to Senior Center from Mr. Lee; 5/27/25 letter to Wilmington Police Department ("WPD") from Mr. Lee; Senior Center Report Date Detail; WPD Initial Crime Report; 7/14/25 letter to Senior Center from Mr. Lee; Discharge report from Christiana Care for Mr. Lee).

During the hearing, Respondents offered into evidence, without objection, the following documents, which the Panel Chair agreed would be admitted into evidence during Respondents' case, but which were not ultimately admitted due to

¹ Both parties made opening statements and presented closing arguments which are part of the record but are not summarized here because such statements are not evidence. They are considered by the Panel during deliberations, to the extent that they are supported by the evidence presented and may shed light on a material point.

² Respondents originally objected because they did not receive Complainant's exhibits in advance of the hearing. Complainant indicated he sent the exhibits to the Senior Center in advance. Because Respondents did not have time to review Complainant's exhibits, a brief hearing recess was taken to allow counsel for Respondents to review Complainant's exhibits. Respondent then agreed to the introduction of Complainant's exhibits, subject to the ability to ask questions about the exhibits on cross examination, and as long as all of Respondents' exhibits were likewise admitted into evidence. The Panel Chair accepted all Complainant's exhibits into evidence and agreed to accept all of Respondents' exhibits into evidence, however Respondents did not ultimately put on their case due to the ruling on the Motion to Dismiss after Complainant's case concluded, so Respondents' exhibits were not admitted into evidence.

the granting of the Motion to Dismiss after Complainant's case concluded:

- (a) Complaint;
- (b) Respondents' Response to Complaint;
- (c) Compilation of letters between Mr. Lee and the Senior Center Director;
- (d) Senior Center fliers; and
- (e) Senior Center Handbook.

The Panel heard testimony from the following witnesses offered by Complainant:

- (a) Complainant, Haeng Lee.

The Panel heard no testimony from witnesses offered by Respondents, due to the granting of the Motion to Dismiss after Complainant's case concluded.

Because the Panel made its decision based upon a Motion to Dismiss following Complaint's case in chief, the Panel did not issue Findings of Fact, assess witness credibility, or make any determinations of conflicting testimony. Instead, this Order contains a recitation of Complainant's factual evidence, taken as true by the Panel for purposes of the standards for a motion to dismiss.

Mr. Lee is a Korean man who speaks Korean. On January 22, 2025, Mr. Lee reported to the Senior Center Director, Lindsay Draper ("Ms. Draper"), that on the day prior, a man named Steve had threatened Mr. Lee on the staircase. On February 28, 2025, when Mr. Lee sought a seat to play bingo at the Senior Center,

Mr. Lee alleges that Steve took Mr. Lee's seat. He again reported this to Ms. Draper, who also witnessed the incident, but Mr. Lee claims Ms. Draper did not do anything about it. On April 13, Steve did not pay for lunch when all other members pay \$2-\$3 for lunch. Mr. Lee reported this to Ms. Draper, who responded that all members have lunch for free.

On May 16, 2025, Mr. Lee reported to Ms. Draper that a female member of the Senior Center sexually harassed him on May 14 and May 15. She touched Mr. Lee's body and said he had a strong arm. The next day the same woman came from behind him and touched Mr. Lee's hair and pulled his hood up over his head. He was very embarrassed. Mr. Lee contends that Ms. Draper checked the CCTV video recording records for May 16, but Mr. Lee alleges that was the date of the report, not the date of the incidents.

On May 16, 2025, after lunch, Mr. Lee walked past the computer room and Steve locked the door and acted strangely. Mr. Lee testified that Steve always screamed at him. On May 19, Steve publicly apologized to Mr. Lee. On May 27, Mr. Lee reported to Ms. Draper that on May 24, Steve stared at him. Mr. Lee testified that he was scared of Steve. Mr. Lee admitted that Steve never made any comments about Mr. Lee's national origin.

On July 20, 2025, at bingo time, the woman who had previously allegedly harassed him was near Mr. Lee again. Mr. Lee spoke to Ms. Draper and wanted to report the woman.

Mr. Lee testified that he submitted all his complaints to the Director of the Senior Center, but that the Senior Center never responded in writing, but orally said they would take care of things.

Mr. Lee used his phone to translate his conversations with Ms. Draper into Korean. He was provided the Senior Center activities calendar translated into Korean several times.

On June 19, 2025, Mr. Lee went to the Wilmington Police Department station to obtain a copy of a police report from an earlier incident about Steve (that occurred on May 31st and that he had reported to the police by telephone). Since no report had been issued, the officer at the station wrote out the police report in person. A Korean translator assisted him at the station. This police report was submitted into evidence by Complainant. Mr. Lee was told to return to the police station for a copy of the report, which he did on June 25, 2025.

Mr. Lee testified that on July 20, 2025,³ he contacted the Wilmington Police Department to report the woman's sexual harassment of him. He testified that two

³ Mr. Lee at times in his testimony referred to the date he contacted the police and was told by the police to leave the Senior Center as July 20 and at times as July 21. He testified that after leaving the Senior Center, he immediately went in person to the office of the Division of Human

police officers came to the Senior Center to take his report on July 20, 2025. He used his phone to translate and communicate with the police officers. He claims the police officers asked him to leave the Senior Center, telling him that the two Directors of the Senior Center decided he needed to leave. Mr. Lee stated he felt he had to obey the directive of the police, so he left the Senior Center. There was no police report submitted into evidence for that incident. Mr. Lee claims that the police officers gave him a complaint number, but it was the same complaint number as his previous police report about Steve's conduct. Because the police gave him the same complaint number as his prior complaint about Steve, Mr. Lee did not go to the police station to request a copy of the police report from the July 20, 2025, incident about the woman at the Senior Center. Mr. Lee admitted in testimony that no one from the Senior Center told him directly that he needed to leave or that he was not able to return. Mr. Lee did not attempt to go back to the Senior Center after that day.

CONCLUSIONS OF LAW

At the conclusion of Complainant's evidence, Respondents made a Motion to Dismiss the Complaint based on a failure of Complainant to state a *prima facie* case of discrimination under DEAL, arguing that Complainant had not met his

and Civil Rights to file his Complaint. The Complaint file date is listed as July 20, 2025.

burden of proof, he was not denied access to public accommodations, he did not allege any other persons were treated more favorably than him, he provided no third party witnesses or statements other than his own, no one was arrested by the police, and his account that the police told him not to return was inconsistent. Respondents cited the *Witcher v. Breeding* case, where the Court found that miscommunications as a result of unintentional cultural differences were not discrimination.⁴ The Panel deliberated on the Motion and granted the Motion to Dismiss.

Commission Regulation 8.9 grants the Panel the discretion to consider motions from a party made later than ten (10) days prior to the start of the hearing and allows opposing parties to present opposition at the hearing. 1 *Del. Admin. C.* § 601-8.9. For a motion to dismiss under Delaware law, it is assumed that all well-pleaded allegations in the complaint are true. The complaint will not be dismissed unless the complainant would not be entitled to recover under any reasonably conceivable set of circumstances susceptible of proof. The complaint must be without merit as a matter of fact or law to be dismissed. Every reasonable factual inference will be drawn in the non-moving party's favor.⁵

⁴ *Witcher v. Breeding*, 2012 WL 3518079 (Del. Super. July 31, 2012).

⁵ See *State Human Relations Bd. ex rel. Aburrow v. Sea Colony Recreational Assoc.*, 2009 WL 3326630, at *1 (Del. Super. Oct. 14, 2009); see also *Blades v. Mosaic of Delaware*, 2017 WL 3868238 (Dist. Del. Aug. 31, 2017) (pleading standards for Rule 12(b)(6) motions to dismiss applied to discrimination cases).

Mr. Lee alleges that Respondents violated DEAL and denied him access to a place of public accommodation because of his national origin and sex, as well as sexual harassment. According to DEAL,

no person being the owner...manager...agent or employee of any place of public accommodation, shall directly or indirectly refuse, withhold from or deny to any person, on account of race, age, marital status, creed, religion, color, sex, disability, sexual orientation, gender identity, military status or national origin, any of the accommodations, facilities, advantages, or privileges of the public accommodation.⁶

The purpose of DEAL is “to eliminate the inconvenience, unfairness, and humiliation of...discrimination.”⁷ The statute must be “liberally construed” to safeguard the rights that it protects. Under Delaware law, the Complainant must establish a *prima facie* case of discrimination. To meet the burden of establishing a *prima facie* case of discrimination, Mr. Lee must show: (a) he is a member of a protected class; (b) he was denied access to a place of public accommodation;⁸ and (c) non-members of the protected class were treated more favorably. Further,

⁶ 6 Del. C. § 4504(a)(1)a.

⁷ *Uncle Willie’s Deli v. Whittington*, 1998 WL 960709, at *4 (Del. Super. Dec. 31, 1998) (citations and internal quotation marks omitted).

⁸ According to DEAL, it is illegal to “directly or indirectly refuse, withhold from, or deny,” any “accommodations, facilities, advantages, or privileges” of a “place of public accommodation” based upon specified protected characteristics. 6 Del. C. § 4504(a)(1)a. Unless the context requires otherwise, for purposes of clarity in this discussion the Panel will employ the term “denied” to embody all the statutory terms “refuse,” “withhold from,” and “deny,” and will use the word “access” to encompass the phrase “accommodations, facilities, advantages, or privileges.”

under Delaware’s Administrative Procedures Act⁹ the burden of proof always remains upon the complainant.¹⁰

DISCUSSION

COMPLAINANT HAS NOT ESTABLISHED A PRIMA FACIE CASE OF DISCRIMINATION

The Panel finds that Mr. Lee has proven by a preponderance of the evidence the first *prima facie* element, that he is protected from discrimination based on his “sex” (male) and “national origin” (Korean).¹¹

The Panel finds, however, that Mr. Lee has not proven by a preponderance of the evidence the second *prima facie* element—that he was denied access to a place of public accommodation. The DEAL statute dictates that the Panel consider whether the conduct of Respondents amounted to a refusal, withholding or denial of access to a public accommodation.¹²

Mr. Lee contends in his Complaint that he was denied access to the Senior Center when he was instructed to collect his belongings and not return. His testimony, however, was that the *police officers* who responded to the call from

⁹ 29 Del. C. Ch. 101.

¹⁰ 29 Del. C. § 10125(c); *Boggerty v. Stewart*, 14 A.3d 542, 550-553 (Del. Feb. 17, 2011).

¹¹ 6 Del. C. § 4504(a)(1)a.

¹² *Witcher v. Breeding*, 2012 WL 3518079, *3 (Del. Super. July 31, 2012).

Mr. Lee told Mr. Lee to leave the premises and said the instruction to leave was at the request of the Directors of the Senior Center.¹³ Mr. Lee admitted that no one at the Senior Center directly told Mr. Lee that he had to leave nor that he was not allowed to return. (Q: “Who from the center said you can't come back here anymore, if anyone?” A: “That was no one from the center.” Later A: “This is what the center people said to the police and the police passed that on to me.”).

The only evidence that the Directors of the Senior Center told the police to remove Mr. Lee is hearsay evidence from Mr. Lee stating what the two police officers told him.¹⁴ The officers were not present at the hearing to testify, despite the Commission’s subpoenas issued to both officers at Respondents’ request. At the hearing, Respondents’ attorney objected to the evidence of what the police officers told Mr. Lee as hearsay. That objection was overruled by the Panel Chair on the basis that administrative hearings are less formal than court proceedings and

¹³ Mr. Lee was clear in his direct testimony as well as repeated questioning by Panel members during the hearing that only the police reported to him that the Senior Center Directors asked him to leave and not return to the facility. The wording of his written Complaint was unclear on this point, in that it stated: “The Complainant was told in July 2025 by the Director that there was no CCTV footage and was instructed to collect his belongings and not return, effectively denying him access to the facility.” As there is no subject of the second independent clause of that sentence, it could be read to mean the Director of the Senior Center instructed him, or it could be a wholly independent clause in the passive voice, where the instruction was by the police. The Complainant clarified this statement in his testimony and clearly admitted only the police told him that the Director said he must leave and not return. He had no direct communication with the Senior Center to confirm the statement of the police to him.

¹⁴ As Mr. Lee testified: “This is what the Center people said to the police and the police passed that on to me.” “What they said, what the police said to me is that the Directors of the Center said that to the police.”

hearsay evidence may be admissible in administrative hearings. However, administrative bodies like the Panel are not permitted in Delaware to make a determination solely on the basis of hearsay - there must be corroborating non-hearsay evidence presented that supports the hearsay evidence.¹⁵ In this case, there was no corroborating non-hearsay evidence that the Directors of the Senior Center told the police to ask Mr. Lee to leave the premises or to instruct Mr. Lee that he was not permitted to return to the premises. Mr. Lee did not contact the Senior Center himself to confirm with the Directors whether he was able to return and he made no attempt to return. With no corroborating evidence, the Panel cannot base its decision on the hearsay evidence of what the police told Mr. Lee about what the Directors of the Senior Center told the police. Therefore, the Panel concludes that Mr. Lee has not met his burden of proving the second *prima facie* element – that Respondents denied him access to the public accommodation of the Senior Center.

There are no published cases by Delaware courts under DEAL that have specifically considered whether sexual harassment was itself a basis to claim a denial of access to a public accommodation. The Panel acknowledges Mr. Lee's testimony that his allegations of sexual harassment from a woman who attended the Senior Center caused him to have subjective feelings of being "concerned" and

¹⁵ 29 Del. C. § 10161(e) ("Decisions must not be based exclusively on hearsay."); *Husbands v. Del. Dept. of Education*, 2020 WL 1814045 at *3 (Del. April 7, 2020).

it being “embarrassing.” Mr. Lee alleged that the woman: (1) patted his head, stroked his hair and pulled his hood up over his head from behind him (reported to the Senior Center and the police), and (2) touched his arm and indicated he had an amazing arm muscle (reported to the Senior Center, but not the police).¹⁶

Under Delaware’s DEAL statute a person cannot be denied access to a public accommodation based on their sex. The U.S. Supreme Court has opined that the protected class of sex includes sexual harassment.¹⁷ Accordingly, the Panel must look to other types of analogous anti-discrimination laws that analyze discrimination on the basis of sexual harassment. In an action for both denial of place of public accommodation and a hostile environment, a federal District Court in Michigan required Title IX¹⁸ sexual harassment plaintiffs to show that the sexual harassment was so severe, pervasive, and objectively offensive that it effectively bars the plaintiff’s access to an educational opportunity or benefit, which required consideration of the following factors: (1) the conduct’s severity, (2) the frequency of the abusive conduct, (3) whether the conduct is physically threatening or humiliating rather than merely offensive, and (4) whether the conduct

¹⁶ See Complainant’s Exhibit 1, pp. 10-11, 16-17.

¹⁷ *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986) (“without question, when a supervisor sexually harasses a subordinate because of the subordinate’s sex, that supervisor ‘discriminates’ on the basis of sex.”).

¹⁸ Title IX is a federal civil rights law that prohibits sex-based discrimination in any education program or activity receiving federal funding.

unreasonably interferes with the plaintiff's performance.¹⁹ Similar cases in Delaware federal courts and the U.S. Supreme Court, when analyzing hostile work environment claims under various federal anti-discrimination statutes, have applied multi-factor tests to determine whether harassment is so severe or pervasive that the working environment becomes hostile or abusive.²⁰ To make out a discrimination claim, Courts have required the offensive conduct to objectively create an environment that a reasonable person would find to be abusive or hostile, in addition to the subjective requirement that the victim perceived the environment to be abusive.²¹

The Panel finds that Mr. Lee's allegations of sexual harassment, taking them as true for purposes of the Motion to Dismiss, did not rise to a level of being severe, pervasive, and objectively offensive such that Respondents' inaction in responding to the allegations (as alleged by Mr. Lee) effectively barred Mr. Lee's

¹⁹ *Varlesi v. Wayne State University*, 909 F.Supp.2d 827 (E.D. Mich. 2012).

²⁰ See *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986) (for sexual harassment to be actionable under Title VII it must be "sufficiently severe or pervasive 'to alter the conditions of [the victim's] employment and create an abusive working environment.'"); *Monte v. 24 Liquors, LLC*, 2025 WL 2993752 (Del. Super. Oct. 23, 2025) (complaint fails to state claim for sexual harassment because it does not allege conduct that is severe or pervasive enough to give rise to cause of action under Delaware Discrimination in Employment Act); *Miller v. State, Dept. of Public Safety*, 2011 WL 1312286, *9-11 (Del. Super. Apr. 6, 2011) (adopting Third Circuit's five-factor test under Title VII to determine whether sexual harassment is so severe or pervasive that working environment becomes hostile or abusive).

²¹ *Oncale v. Sundowner Offshore Services, Inc.*, 523 U.S. 75 (1998) (in all sexual harassment cases, plaintiff must show objectively hostile environment); *Miller*, 2011 WL 1312286, *9-11 (requiring both objective and subjective requirements for hostile work environment claim of sexual harassment to be actionable).

access to the Senior Center or acted as a denial of access to the public accommodation. The Panel concludes that the evidence presented by Complainant in support of the second *prima facie* element does not meet Complainant's burden to prove that he was denied access to the public accommodation by Respondents.

Mr. Lee also presented no evidence that any non-members of the protected classes were treated more favorably, thereby also failing to prove the third *prima facie* element.

The Panel unanimously finds that Mr. Lee has not met his burden to prove that Respondents denied him the accommodations, facilities, advantages, or privileges of a place of public accommodation. The Panel therefore finds that Mr. Lee has not established by a preponderance of the evidence a *prima facie* case of discrimination, so no further analysis is required.

CONCLUSION

After careful consideration of the evidence presented, the Panel, by unanimous vote, concludes that Mr. Lee has failed to prove by a preponderance of the evidence that Respondents violated DEAL, 6 *Del. C.* § 4504. The Panel therefore grants the Respondents' Motion to Dismiss submitted orally after the conclusion of Complainant's case.

ORDER

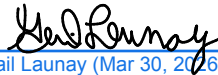
Pursuant to 6 *Del. C.* § 4508(g), the Complaint against Respondents is
DISMISSED.

IT IS SO ORDERED this _____ day of _____, 2026.



Dwayne J Bensing (Mar 30, 2026 17:30:52 GMT+1)

Dwayne Bensing
Commissioner and Panel Chair



Gail Launay (Mar 30, 2026 12:20:26 EDT)

Gail Launay
Commissioner and Panel Member



Deborah Street (Mar 29, 2026 14:31:09 EDT)

Deborah Street
Commissioner and Panel Member