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DEC – S2004-063-066 Full Case Report

Anthony Corcoran, Nancy Corcoran, Tom Reilly and Ellen Reilly V The Black Lion Pub (Represented by Kelly Kennedy Solicitors)

Anthony Corcoran, Nancy Corcoran, Tom Reilly and Ellen Reilly each referred a claim to the Director of Equality Investigations under the Equal Status Act 2000. In accordance with her powers under section 75 of the Employment Equality Act, the Director then delegated the cases to me, Bernadette Treanor, an Equality Officer, for investigation, hearing and decision and for the exercise of other relevant functions of the Director under Part III of the Equal Status Act.



Anthony & Nancy Corcoran

Anthony and Nancy Corcoran failed to appear at the hearing as scheduled, having submitted a number of requests for adjournments and a subsequent request for their cases to be heard at a different time than that of the Reillys. It appeared that a disagreement of some sort may have developed between the two couples. Since the various reasons give for adjournment were considered spurious the requests were refused. The Corcorans failed to appear at the hearing as scheduled and have therefore failed to present evidence sufficient to establish a prima facie case. Their cases will not be further considered except in respect of a formal declaration of my decision at the end of this document.



Summary of the Reilly's case



On 14/8/2001 the Reillys and Corcorans entered the Black Lion having been in an adjacent pub beforehand. They had never been in the Black Lion before. When they entered the ladies sat down while the men went to the bar. A barman approached the ladies and asked them if they had been served. The men were refused at the bar. They asked why two or three times and were told "Regulars only". The complainants replied that this was discrimination and that they would be taking a case.

Summary of the Respondent's Case

A barman from the Black Lion had been off duty and drinking in the pub adjacent to it around 9pm on 14/8/01. He witnessed an incident in the pub where he was drinking. Two men were having an argument at the counter as they had been refused. He couldn't hear what was said but he considered the tone aggressive and there was a lot of waving of hands. It ended with "C'mon we'll go to the Black Lion" and the two men went to the two women in the corner and the barman left intending to tell the Black Lion manager that troublemakers were on the way. When the group entered the manager refused them. One of the group, identified as Anthony Corcoran, lunged across the bar to try and grab the manager but missed. Mr. Corcoran asked for written details of the incident but the manager refused.

Conclusions of the Equality Officer

At the outset, I must first consider whether the existence of a prima facie case has been established by the complainant. There are three key elements which need to be established to show that a prima facie case exists. These are:

- (a) Applicability of the discriminatory ground (in this case the Traveller ground).
- (b) Evidence of specific treatment of the complainant by the respondent
- (c) Evidence that the treatment received by the complainants was less favourable than the treatment another person received, or would have received, in similar circumstances, where that person is not a Traveller.

If and when those elements are established, the burden of proof shifts, meaning that the difference in treatment is assumed to be discriminatory on the relevant ground. In such cases the claimant does not need to prove that there is a link between the difference and the membership of the ground, instead the respondent has to prove that there is not.

I am satisfied that the Reilly's are members of the Traveller community and it is agreed that there was a refusal of service on 14/8/2001, satisfying (a) and (b) above. In respect of (c), the complainants agreed that there had never been any mention of their being members of the Traveller community throughout the incident and that although they indicated that they intended to take a case against the pub, they did not indicate on what grounds this would be. The complainants admitted that one of their group, Mr. Corcoran, had been refused in the adjacent bar. They denied that there was an aggressive discussion of this. However, in this regard, I find the barman's evidence compelling and I am satisfied that he witnessed what he perceived to be a disturbance and understood that those involved intended to move to his place of work. The refusal in the Black Lion was made by the manager on foot of information given to him by a member of his staff whose judgment he trusted. He was informed that the group entering had just caused a disturbance and he refused them on that basis. I am satisfied that non-Travellers in similar circumstances, i.e. having been perceived as causing a disturbance in the adjacent pub and intending to move to the Black Lion, would have been reported in a similar fashion to the manager and would have similarly been refused. In other words, I am satisfied that the complainants were not less favourably treated than non-Travellers would have been in similar circumstances.

The complainants have failed to establish a prima facie case of discrimination on the Traveller ground.

Decision

Anthony & Nancy Corcoran, DEC-S2004-063-064

The Corcorans failed to present any evidence in support of their complaints and the respondent therefore has no case to answer in respect of these complaints. I find that the respondent did not discriminate against the Corcorans on 14/8/2001.



Tom & Ellen Reilly, DEC-S2004-065-066

The Reillys failed to establish that the treatment they received on 14/8/2001 was less favourable on the Traveller ground. I find that the respondent did not discriminate against them when they refused service on that date.



Bernadette Treanor
Equality Officer
3 June 2004



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