

EEOC Form 6 (5/01)

CHARGE OF DISCRIMINATION <small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small>		Charge Presented to: Agency(ies) Charge No(s): <input checked="" type="checkbox"/> FEPA <u>563-2019-02638</u> <input checked="" type="checkbox"/> EEOC	
Kansas Human Rights Commission <small>State or local Agency, if any</small>			
Name (indicate Mr. Ms. Mrs.) Kenya Watkins		Home Phone (Incl. Area Code) 316-744-3050 / 316-550-3447	Date of Birth 11-16-76
Street Address 1708 Pinecrest, Wichita, Kansas 67208		City, State and ZIP Code	
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name Genesh, Inc. d/b/a Burger King		No. Employees, Members Over 15	Phone No. (Include Area Code)
Street Address 528 N. Oliver, Wichita, Kansas 67208		City, State and ZIP Code	
DISCRIMINATION BASED ON (Check appropriate box(es).) <input checked="" type="checkbox"/> RACE <input checked="" type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify below.)		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest August 23, 2015 to December 27, 2018 <input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attached extra sheet(s)): Previous related charge: 28D-2016-00190. I was hired part-time at Genesh, Inc. d/b/a Burger King ("Respondent") on or about August 14, 2014. I last held the position of a Cashier/Crew Member. I was paid \$7.50 per hour. My last day on the job was on or about August 23, 2015, when I was terminated. The most recent date that I was discriminated and/or retaliated against was December 27, 2018. I believe that Respondent has a history of sex discrimination and/or sexual harassment. I believe that Respondent has a history of covering up allegations of sex discrimination and/or sexual harassment and retaliation. I believe that I (and other women) was subjected to acts of discrimination, harassment, a hostile work environment and retaliation due to, among other things, my gender, my race, my color, my national origin, and my complaints of sexual harassment and hostile work environment, and as acts of retaliation for having openly opposed acts and practices forbidden by the Kansas Act Against Discrimination, Title VII of the Civil Rights Act 1, and subjected to additional discriminatory actions as acts of retaliation for having previously complained of discrimination and retaliation. I further believe I was discriminated and retaliated against because Respondents were aware that I had knowledge of other complaints and would provide information, if investigated. I further believe that the Respondent failed to follow their policies and procedures and investigate my complaints (and co-workers' complaints) of discrimination, harassment, and a hostile work environment and retaliated against me (and other women) for making such complaints.			

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I further believe that the Respondent discriminated, harassed, created a hostile work environment and retaliated against me (and other women) by failing to provide me (and other women) the same benefits and privileges provided to male employees, such as working in a safe environment, and retaliated against me (and other women) by interfering with my ability to secure new employment and interfering with my subsequent employment.

I believe that women were treated differently from men. I believe that I (and other women) was treated less favorably throughout employment because I am female and for refusing the advances of male employees. I further believe that the environment at Genesh, Inc. d/b/a Burger King was hostile towards women. It is my understanding that numerous complaints have been made by women alleging discrimination, harassment, a hostile work environment and/or retaliation.

A hostile work environment exists when the work environment is sufficiently altered by (a) behavior of management or (b) behavior of coworkers infused with the power of management, to reach the *functional equivalent of an adverse employment action motivated by protected status*. Title VII requires equality in access to all the terms and conditions of employment. The *terms and conditions of employment* include not only being hired, paid equally and disciplined fairly, but being able to work daily free from the negative actions and words that those in the majority enjoy. Only the employer has the power to create or alter working conditions and therefore the source of hostility that can alter working conditions is from actions by other employees (manager or co-worker) in some manner *clothed with the power of the employer* to alter those working conditions. Behavior that affects the terms and condition of employment can be, of course, words or direct insult, but also actions without words that are, in some way, clothed with managerial power. This can also include the *failure to act* in response to knowledge of words or actions adverse to a minority. The question is at what moment words or actions (in either sufficient number or if individually, sufficient shock value) alter those terms and conditions.

Harassment need not be severe and pervasive to impose liability; one or the other will do. *Hosteller v. Quality Dining*, 218 F.3d 798, (Cir. 2000) (citing *Smith v. Sheahan*, 189 F.3d 529, 533 (7th Cir. 1999); see *Harris*, 510 U.S. at 21, 114 S. Ct. at 370; *Meritor*, 477 U.S. at 66, 106 S. Ct. at 2405. There is no "magic number" of incidents required to establish a hostile environment. *Doe v. R.R. Donnelley & Sons Co.*, 42 F.3d 439, 445 (7th Cir. 1994), citing *Rodgers v. Western- Southern Life Ins. Co.*, 12 F.3d 668, 674 (7th Cir. 1993). We have repeatedly recognized that even one act of harassment will suffice if it is egregious. See *Smith*, 189 F.3d at 533-34; *DiCenso v. Cisneros*, 96 F.3d 1004, 1009 (7th Cir. 1996); *Daniels v. Essex Group, Inc.*, 937 F.2d 1264, 1273-74 & n.4 (7th Cir. 1991); *King v. Board of Regents of Univ. of Wis. Sys.*, 898 F.2d 533, 537 (7th Cir. 1990); *Bohen v. City of East Chicago, Indiana*, 799 F.2d 1180, 1186-87 (7th Cir. 1986); see also *Guess v. Bethlehem Steel Corp.*, 913 F.2d 463, 464 (7th Cir. 1990) (implicitly assuming single act sufficient to establish hostile environment)).

In or around September 2014, Michael Jackson, the General Manager of my store while working for Respondent, began sexually harassing me.

Mr. Jackson asked me to come to his house, touched my behind and my vagina, and would proposition me for sex. Mr. Jackson told me that he was the decision maker for a managerial promotion, and I would not be promoted if I did not agree to perform sexual favors for him. Mr. Jackson told me that I made him "so horny" and would tell me that he was "going to get some". Mr. Jackson tried to

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force me into the back room and/or freezer on multiple occasions to have sex with him. Mr. Jackson told me to "come inside and let [him] play around in [my] pussy".

In or around July 2015, I made both a written and verbal complaint to Respondent's corporate office regarding the sexual harassment. On or about July 26, 2015, I called 911 to report an assault after Mr. Jackson physically tried to have sex with me.

On or about August 23, 2015, Respondent terminated my employment.

On or about January 7, 2016, I filed a Charge of Discrimination against Respondent with the Kansas Humans Right Commission (Charge No. 38411-16), attached hereto as **Exhibit "A"**.

In or around December 2018, Respondent contacted me while I was working at my current employer, Cajun Operating Company d/b/a Church's Chicken ("Church's"). The representative from Respondent asked me "what I wanted."

Upon information and belief, the Owner of Respondent is friends with the Owner of Church's.

Upon information and belief, Respondent also called Church's and told them that they should not have hired me. Further, Respondent told Church's that I was on drugs and that "everyone should stay away from [me]" because I filed a sexual harassment claim.

By contacting my current employer and making defaming comments, Respondent is continuing to retaliate against me because of my complaints of discrimination, harassment, and retaliation and because I filed a Charge of Discrimination against them with the KHRC.

I further believe that the inappropriate comments from Respondent's employees were sufficiently severe and pervasive in an effort to create a hostile work environment at my current employment.

Conclusion

I believe that Respondent's leadership fosters or condones a culture that marginalizes, demeans, and undervalues women.

I believe that Respondent discriminated and/or retaliated against me by taking adverse employment action against me including, but not limited to, the following:

1. Refusing to investigate my complaints of sexual harassment and hostile work environment;
2. Terminating me when I was qualified and available;
3. Interfered with my ability to perform the essential functions of my job;
4. Promoting a hostile work environment;
5. Failing to prevent or correct a hostile work environment;
6. For allowing its employees to discriminate, sexually harass, and retaliate against me;
7. Refusing to take any action to prevent its employees from further discrimination and retaliation and from creating a hostile work environment;
8. For terminating my employment; and,

9. For contacting my current employer to further retaliate against me.

I believe that the actions of Respondents were discriminatory and retaliatory. My job was as a Cashier. I had a satisfactory employment record with Respondents and my most recent rate of pay is approximately \$7.50 per hour.

On information and belief, based upon my experiences with Respondents, I believe that Respondents knew, or should have known, of the behavior of its managers and employees and it failed to take any action.

I further believe that Respondents created a hostile work environment to discriminate and to retaliate against me and that Respondents are attempting to create a hostile work environment to further retaliate against me at my current employer.

On information and belief, I further believe that Respondents have engaged in a pattern or practice of discrimination and retaliation against individuals with similarly situated to myself.

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<p>I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.</p>	<p>NOTARY – <i>When necessary for State and Local Agency Requirements</i></p> <p>7/22/19</p> <p><i>Julie D. Scott</i></p>
<p>I declare under penalty of perjury that the above is true and correct.</p> <p>7/22/2019 <i>Kong Watkins</i></p> <p>Date Charging Party Signature</p>	<p>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.</p> <p>SIGNATURE OF COMPLAINANT</p> <p>SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)</p>

NOTARY PUBLIC - State of Kansas
 JULIE D. SCOTT
 My Comm. Expires March 31, 2022

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 FEDERAL BUREAU OF INVESTIGATION
 KANSAS FIELD OFFICE