

Tools for Success Chapter 7: When Push Comes to Shove

Legal Remedies for Employment Discrimination

Employment discrimination based on sex, race, color, religion, and national origin is against federal law; discrimination based on sexual orientation is also against local law in some areas. As a tradeswoman, there is a high probability that you will experience discrimination as a woman or woman of color at some point in your career. After you have exhausted all other remedies, you have to decide if legal action is right for you - will it hurt you or help you, will it open doors for other women?

If you decide that a legal remedy is important to you, you will need good records to prove discrimination. For all incidents where you felt you were discriminated against, you should have records with dates, times, places, witnesses and any other important information. If possible, take these notes at work, when the incident is fresh in your mind.

If there is a tradeswomen's organization in your community, ask for advice about any employment discrimination. We may be able to intervene on your behalf. We may also advise you to try to resolve discrimination yourself first.

If your tradeswomen's organization can't help you and if you can't resolve the discrimination on your own, your union can file a grievance or you file a complaint with one of several agencies. You must file this complaint six months to one year from the time the discrimination occurred, depending on the agency you choose.

Resolving the Discrimination Yourself

To resolve the problem on your own, try the following steps:

- 1) *Discuss the problem directly with the person immediately responsible.*
- 2) *Explain why you think you are being treated differently from other workers, with specific examples. Explain what the impact of the discriminatory treatment is and how it is harmful (perhaps to your training, to career advancement, to safety or to morale).*
- 3) *Propose solutions to the problem. Specify the remedy and who can implement the remedy. Estimate what it would cost.*
- 4) *If the person responsible says that he or she can address your concerns, ask who will be responsible for doing this and when it will be done.*
- 5) *If the person responsible cannot help you, ask for suggestions about your next steps.*
- 6) *Regardless of the outcome of the conversation, follow it up with a letter. Include the date of the meeting, the names of the participations, the issues discussed and the solutions proposed. Keep a copy of this letter for yourself.*

Taking Legal Action

Filing a charge of discrimination is one of our options. If you win, you can be reinstated to your job with back pay, your company can be prohibited from discriminating against you or others, you can win back other rights that you may have been denied, such as overtime and seniority,

and you can be awarded the money you spent on your lawyer. You should be aware, though, that legal action is time-consuming, emotionally draining and, although you are legally protected from retaliation, it may be challenging to prove retaliation or wait for the resolution if you are laid off.

Because the early stages of the process are so important, getting limited advice from a lawyer before you file charges is probably well worth the money. It's useful to have an objective opinion about the merits of your case from someone who is familiar with the law, and you don't necessarily have to retain this person if you decide to file.

If you have a complex case or if you want to get into the process faster, you may decide to keep a lawyer. If you win your case you may be awarded your lawyer's fees, but you still have to come up with the money to hire him or her. Some lawyers will take a case on a contingent fee basis, getting paid only if you win your case, but usually only if either the federal Equal Employment Opportunity Commission (EEOC) or, in Chicago, the Illinois Department of Human Rights (IDHR) has found grounds to file a complaint. Free legal services are available based on income in some communities; your local Bar Association can give you more information.

In Chicago, the Legal Assistance Foundation will assist low-income people with legal matters, also visit for a list of free or reduced rate legal services

<http://www.illinoislegalaid.org/index.cfm?fuseaction=home.helpfulOrgsAll>

Where to File Your Complaint

Tradeswomen from all parts of the country can file with two federal agencies, the Equal Employment Opportunity Commission (EEOC), and the Office of Federal Contract Compliance Programs (OFCCP). You can also file with state, county, and city agencies. Since the jurisdictions and regulations of local agencies vary, you should get advice about where to file from your union, from a tradeswomen's organization or from your lawyer.

Filing Complaints in Chicago

In Chicago you can file your complaint with federal agencies:

- *the Equal Employment Opportunity Commission (EEOC)*
- *the Office of Federal Contract Compliance Programs (OFCCP)*

Chicago local agencies:

- *the Illinois Department of Human Rights (IDHR)*
- *the City of Chicago Commission on Human Relations (CCHR)*
- *the Cook County Commission on Human Relations*

The best place to file a complaint is probably with the Illinois Department of Human Rights. Generally, it is less expensive to litigate there, and the Human Rights Commission, the state entity that follows up on findings of discrimination, tends to be more sympathetic to victims than the federal court. Also, the state will automatically cross-file your claim with the EEOC,

while the reverse is not true. You can go directly to the HRC if the IHDR is too slow, but you must wait for the EEOC to act before you can file a case in federal court.

You do not need a lawyer to file your charge, since both the IDHR and EEOC will assist you. However, hiring a lawyer is probably a good idea, since the lawyer can make sure your case is getting proper attention.

Illinois Department of Human Rights (IDHR) <http://www2.illinois.gov/dhr/Pages/default.aspx>

- *IDHR investigates discriminatory conduct as long as your company employers at least 15 workers.*
- *You have 180 days from the date of the discriminatory conduct to file your charge. The IDHR will hold a fact-finding conference and upon a finding of "substantial evidence" it will file a complaint with the Human Rights Commission (HRC). The HRC holds a public hearing before an administrative law judge.*
- *If IDHR does not act on your charge within 300 days of your filing, you can proceed directly to the HRC if you do so within 30 days of the IDHR's failure to act.*

City of Chicago Commission on Human Relations (CCCHR)

http://www.cityofchicago.org/city/en/depts/cchr/supp_info/file_a_discriminationcomplaint.html

- *You may file a charge here within 180 days of the discriminatory conduct, as long as events took place in Chicago. If, after investigation, the executive compliance staff finds that there is substantial evidence, it will file the charge before an administrative law judge.*

Cook County Commission on Human Rights <http://www.cookcountyil.gov/human-rights-commission-on/complaint-filing-and-investigation>

- *You can file here for discrimination that occurred in Cook County but not in Chicago.*
- *You must file your complaint within 180 days of the discrimination; an investigation will follow.*
- *Penalties include actual damages and fines from \$100 to \$500.*
- *You may request permission to bypass the Commission and file in court.*

Filing Complaints Outside of Chicago:

Equal Employment Opportunity Commission (EEOC)

http://www.eeoc.gov/federal/fed_employees/complaint_overview.cfm

- *You can file a claim here within 360 days of the discriminatory conduct, or within 30 days of the termination of state proceedings, whichever is earlier.*
- *The EEOC may investigate the claim; if it finds reasonable grounds for the charge, it will file a complaint in federal court on your behalf.*

Office of Federal Contract Compliance Programs (OFCCP)

<http://www.dol.gov/ofccp/regs/compliance/pdf/pdfstart.htm>

- *You can file a complaint here if your complaint is against a federally funded contractor or against an apprenticeship program regulated by the Office of Apprenticeship.*
- *You must file your complaint within 180 days of the discriminatory conduct.*