



FILED:  
August 2,  
2023

STATE OF INDIANA  
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

<b>Torrance Sanders,</b> Complainant, V. <b>Keene Urquhart &amp; Urquhart Group, LLC,</b> Respondent.	Administrative Cause No.: ICRC-0921-002050 Underlying Agency Action No.: HOha21010042 05-21-1589-8
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*Subject to the Ultimate Authority of the Indiana Civil Rights Commission*

**RECOMMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

*Pursuant to IC 4-21.5 this Recommended Order is not final and shall be presented to the ultimate authority for issuance of a final order.*

**JURISDICTION**

The Indiana Civil Rights Commission ("ICRC") has subject matter jurisdiction over housing discrimination complaints based on disability that are filed under the Indiana Civil Rights Law ("ICRL"). IND. CODE § 22-9-1-2; IND. CODE § 22-9-1-6. Furthermore, the ICRC has jurisdiction over this matter because 1) Complainant and Respondent are persons, 2) Respondent is a housing provider, and 3) the ICRC made a finding of probable cause on Complainant's sufficiently complete complaint of discrimination. IND. CODE § 22-9-1-3; IND. CODE § 22-9-1-6; IND. CODE § 22-9-1-16; IND. CODE § 22-9-1-17; IND. CODE § 22-9.5-5. When a finding of cause is made under the ICRL, pursuant to the Commission's June 19, 2020, Finding of Necessity, the Office of Administrative Law Proceedings ("OALP") shall appoint an Administrative Law Judge ("ALJ") to preside over the matter and to conduct a hearing. IND. CODE § 22-9-1-6; IND. CODE § 4-15-10.5-12; IND. CODE § 4-15-10.5-13.

**ISSUE**

Did Respondent violate the Indiana Civil Rights Law by terminating Complainant's tenancy with Respondent because of Complainant's disability?

**PROCEDURAL HISTORY**

1. On September 28, 2021, the ICRC, after conducting a neutral investigation, made a probable cause finding on Torrance Sanders's January 26, 2021, complaint that alleged Respondent violated the Indiana Civil Rights Law ("ICRL") by discriminating against Torrance Sanders in the protected area of housing on the basis of disability.

2. On May 16, 2023, ALJ LaKeshia Triggs held a public hearing in this matter. Complainant Torrance Sanders (“Sanders” or “Complainant”) appeared personally. ICRC Staff Attorney Frederick Bremer appeared in support of the complaint on behalf of the public interest. Respondent Keene Urquhart & Urquhart Group, LLC (“Urquhart” or “Respondent”) appeared by counsel Attorney Matthew Griffith.
  - a. At the beginning of the hearing, both Parties made opening statements.
  - b. Complainant called the following witnesses: Torrance Sanders, Natasha Sanders, and Keene Urquhart.
  - c. Respondent did not call any witnesses.
  - d. The following exhibits were admitted: Complainant’s Exhibits 1-12; Respondent’s Exhibits A, B-1, B-2, C-1, C-2, D-1, and D-2.
  - e. At the end of the hearing, Complainant waived oral closing argument. Respondent made an oral closing argument.
3. Neither Party submitted a written closing argument. Both parties timely filed a suggested decision by July 11, 2023.

#### **FINDINGS OF FACT**

1. In 2018, Complainant entered into a lease agreement with Respondent for one half of a one-story duplex residence located at 38 N. Elder Ave, Indianapolis, IN 46222 (“subject property”). Complainant agreed to pay \$900.00 per month in rent to Respondent. (Complainant’s Ex. 2; Tr. 35-37.)
2. On October 24, 2019, Complainant secured Respondent’s permission to sublease the space in the subject property to other individuals. (Complainant’s Ex. 3; Tr. 38.)
3. Complainant subleased the subject property to four subtenants named Brittany Carter, Gina Calloway, Dennis Barker, and Antoine Sanders. The subtenants paid rent to Complainant, who then paid rent to Respondent. (Tr. 39-40.)
4. In 2019, Complainant installed a bathroom in the subject property. Complainant did not have permission from Respondent to install the bathroom. Respondent told Complainant that he would have to eventually remove the bathroom installation before Complainant vacates the subject property using the services of a licensed contractor exclusively. (Tr. 45-46, 115-116.)
5. Complainant suffers from disabling conditions which includes generalized anxiety disorder, post-traumatic stress disorder (“PTSD”) brought on through the deaths of two of his children, an adjustment disorder otherwise called RAD, an attention deficit hyperactive disorder (“ADHD”), and bipolar disorder. (Tr. 48.)
6. In the fall of 2020, the subtenants experienced financial challenges and were slow to pay rent to Complainant. (Tr. 56-58.)

7. In response, around, December 25, 2020, Sanders sent the following text messages to his subtenants:

“I can’t squeeze water out of a turnip. That’s not the only thing getting turned off. My lights are scheduled to be turned off on Dec 28th. Therefore, everyone should keep all money’s and be gone by Dec 28 or. Lights out. Sorry. I haven’t received any money from any of you guys. (Respondent’s Ex. B-2.)
8. In January 2021, Respondent received a call from the police about an issue at the subject property concerning Complainant cutting off the water and heat in the subject property. (Tr. 113-114.)
9. Respondent was notified by one of the subtenants that Complainant shut off the water and heat in the subject property. Complainant entered the subject property and erected a framed wall of drywall to block access to the furnace and water heater. The police advised Respondent to begin emergency eviction proceedings against Complainant. (Tr. 113-114.)
10. That same night the police was called, Respondent changed the locks to the subject property to prevent Complainant from returning to the subject property. (Tr. 118.)
11. Respondent did not know of Complainant’s mental disabilities until Complainant’s wife contacted him about Complainant’s disabilities after the lockout. (Tr.- 126-127.)
12. On January 11, 2021, Respondent began emergency eviction proceedings against Complainant because Complainant shut off the water and heat and was building walls in the house to keep tenants away from the water and heat. Respondent was particularly concerned about the effect of shutting off the heat in the cold winter season on subtenant Brittany Carter’s disabled son. (Tr. 113-114.)
13. An emergency eviction hearing was held on January 22, 2021, in small claims court, where the judge ordered that Complainant’s lease with Respondent was terminated. Complainant lost possession and use of the subject property, and Respondent was awarded possession of the subject property. (Respondent’s Ex. C-2.)
14. On that same day, per the small claims court’s instructions, Respondent provided to Complainant a key to the subject property to allow Complainant access to collect his belongings. (Tr. 118-119.)
15. At the January 22, 2021, hearing, the small claims court gave Complainant nine (9) days to retrieve his possessions and remove the bathroom he had built. (Respondent’s Ex. C-1.)
16. Respondent did not take any action against subtenant Brittany Carter or her son because of Ms. Carter’s son’s disability. (Tr. 129-130.)
17. Respondent has rented to other tenants with disabilities from programs such as the Damien Center and the Homeless Initiative Program to provide them with a safe place to stay. Respondent has approximately thirteen (13) tenants who have disabilities and does not treat them differently than tenants who do not have disabilities. (Tr. 110-111.)

18. Respondent had a tenant who lived on the other side of the subject property who had a mental disability. Respondent did not evict that tenant because of his mental disability. (Tr. 131-132.)
19. Any Conclusion of Law that should have been deemed a Finding of Fact is hereby adopted as such, and this Order's statement of Procedural History is incorporated into these Findings of Fact.

### CONCLUSIONS OF LAW

1. The ICRC has subject matter jurisdiction over complaints of housing discrimination on the basis of disability. IND. CODE § 22-9-1-2; IND. CODE § 22-9-1-6.
2. The Indiana Civil Rights Law ("ICRL") prohibits a real estate provider from excluding "...a person from equal opportunities because of...disability ..." IND. CODE § 22-9-1-3. Importantly, "every discriminatory practice relating to...disability... shall be considered unlawful unless it is specifically exempted by..." the ICRL, and Indiana courts look to federal law and precedent for guidance on interpreting the ICRL's prohibition. *Id.*; *Indiana Civil Rights Comm'n v. Alder*, 714 N.E.2d 632, 636 (Ind. 1999); *Filter Specialists, Inc. v. Brooks*, 906 N.E.2d 835, 839 (Ind. 2009). Additionally, the ICRL instructs that the ICRL should be "...construed broadly to effectuate its purpose." IND. CODE § 22-9-1-2(g).
3. Both Complainant and Respondent are each a "person" as that term is defined and used in the part of the Indiana Civil Rights Law codified at IND. CODE § 22-9-1-3(a).
4. Discriminatory practices include "[t]he exclusion of a person from equal opportunities because of ...disability..." and the creation or maintenance of "[a] system that excludes persons from equal opportunities because of...disability..." IND. CODE § 22-9-1-3(l)
5. Cases decided under Title VII of the Civil Rights Act of 1964, 42 U.S.C. Sec 2000e et seq. are entitled to great weight in construing the intent of the ICRL. *Indiana Civil Rights Commission v. Culver Educational Foundation*, 535 N.E.2d 112 (Ind. 1989).
6. The ultimate burden of persuading the trier of fact that the [respondent] intentionally discriminated against the [complainant] remains at all times with the [complainant]. *Indiana C.R. Comm'n v. Culver Educ. Found. (Culver Mil. Acad.)*, 535 N.E.2d 112, 116 (Ind. 1989). The [complainant's] establishment of the prima facie case raises the inference of discrimination. *SSU Fed'n of Tchrs., Loc. 4195, AFT v. Bd. of Directors, Madison Area Educ. Special Servs. Unit*, 656 N.E.2d 832, 836 (Ind. Ct. App. 1995).
7. In this case, Complainant has not established by a preponderance of the evidence a prima facie case that raises the inference of discrimination.
8. The evidence showed that Complainant breached his lease with Respondents. First, Complainant made alterations to the subject property without Respondent's permission when he installed the bathroom. Second, Complainant put the subject property at risk by shutting off the water and heat during the cold winter months. As a result, Respondent began emergency eviction proceedings against Complainant.

9. Complainant has not presented any evidence of a nexus between Respondent's knowledge of Complainant's mental disability and Respondent's action in terminating the lease. It was Complainant's actions in shutting off the water and heat in the subject property, not his disability, that caused Respondent to end the lease with Complainant. Furthermore, Respondent did not learn of Complainant's disabilities until after the lockout.
10. In addition, Complainant did not present any evidence that Respondent has treated other tenants without disabilities more favorably than with tenants with disabilities. Respondent described his many efforts to assist his community by providing housing to disabled individuals, including disabled tenants who resided in the subject property.
11. Ultimately, Complainant has not demonstrated that Respondent violated the ICRL, and the Commission must dismiss Complainant's complaint. IND. CODE § 22-9-1-6(l).
12. Any Finding of Fact that should have been deemed a Conclusion of Law is hereby adopted as such, and this Order's statement of Jurisdiction is incorporated into these Conclusions of Law.

#### **DECISION AND ORDER**

1. Complainant has failed to meet his burden of proof, and the undersigned ALJ hereby rules in favor of Respondent and against Complainant.
2. Torrance Sanders's January 26, 2021, complaint is DISMISSED, with prejudice.

SO ORDERED: August 2, 2023



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Hon. LaKesha Triggs, Administrative Law Judge  
Indiana Office of Administrative Law Proceedings  
100 North Senate Ave., Room N802  
Indianapolis, IN 46204  
(317) 234-6689

**Distribution List:**

*The following distribution list includes the names and mailing addresses of all known Parties and other persons to whom notice is being given. IND. CODE § 4-21.5-3-18. A Party who fails to attend or participate in a prehearing conference, hearing, or other later stage of the proceeding may be held in default or have a proceeding dismissed. IND. CODE § 4-21.5-3-18(d)(8).*

Torrance Sanders: 545 N. Belmont Avenue, Indianapolis IN 46222

**9214 8901 0661 5400 0188 9711 98**

Gregory L. Wilson, Sr.: 100 N. Senate Ave., Room N300, Indianapolis, IN 46204, (317) 232-2600

Keene Urquhart\*: 1160 NW 76<sup>th</sup> Ave., Plantation, FL 33322

Keene Urquhart\*: 10410 Bunge Ave., Council Bluffs, IN 51503

Matthew Griffith\*: 777 Beachway Dr., STE 102, Indianapolis IN 46224

Frederick Bremer\*: 100 N. Senate Ave., Room N300, Indianapolis, IN 46204, (317) 232-2600

Chair Slash of the Indiana Civil Rights Commission – ultimate authority and served at [docketclerk@icrc.in.gov](mailto:docketclerk@icrc.in.gov)

*\*served in care of appearing attorney through ALP system at the email address on file with the Indiana Roll of Attorneys – all other service by mail.*

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**APPEAL RIGHTS AND ULTIMATE AUTHORITY REVIEW**

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You are hereby notified of your right to administrative review. If the parties to this action wish to have the ultimate authority administratively review this Recommended Order, the party requesting review must not be in default and must file written objections that:

- 1) Identify the basis of the objection with reasonable particularity; and,
- 2) Are filed with the Docket Clerk of the Indiana Civil Rights Commission on or before the 15<sup>th</sup> day after the date this order was issued by mail or in person at 100 North Senate Ave., Room N300, Indianapolis, IN 46204, by email at [docketclerk@icrc.in.gov](mailto:docketclerk@icrc.in.gov), or by fax at (317) 232-6580.

A Party shall serve copies of any filed item on all Parties.

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**ULTIMATE AUTHORITY**

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*The below information is for the Ultimate Authority's use only. Circle, check, or fill in the blanks below.*

Timely objections were/were not filed to the above Recommended Order. Timely briefs on objections (if any) were/were not filed. An oral argument on objections (if any) was/was not held.

On September 18, 2023, the Indiana Civil Rights Commission decided, by the majority vote of 6 out of the Six (6) Commissioners present to:

- Affirm the above Recommended Order
- Remand the above Recommended Order as further detailed in ICRC Attachment A.
- Affirm the above Recommended Order with modifications as further detailed in ICRC Attachment A.

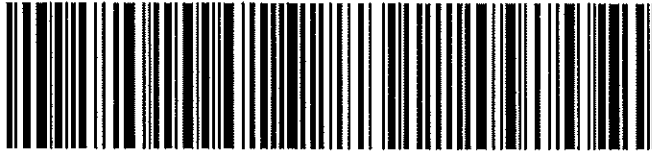
SO ORDERED this 18th day of September, 2023.

Chair

Adrienne L. Stash : x Adrienne L. Stash

Unless the ICRC remanded this matter to the ALJ, then **THIS IS A FINAL ORDER**. A Party to a dispute filed under IC 22-9 and/or IC 22-9.5 may, not more than thirty (30) days after the date of receipt of the Commission's final appealable order, appeal to the court of appeals under the same terms, conditions, and standards that govern appeals in ordinary civil actions. IC 22-9-8-1; IC 22-9.5-11-1.

MICHAEL C. LOSTUTTER  
INDIANA CIVIL RIGHTS COMMISSIO  
100 N SENATE AVE RM N300  
INDIANAPOLIS, IN 46204-2208



9214 8901 0661 5400 0188 9711 98

RETURN RECEIPT (ELECTRONIC)

HOha21010042

TORRANCE SANDERS  
545 N BELMONT AVE  
INDIANAPOLIS, IN 46222-3805

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CUT / FOLD HERE

Zone 1

.....  
6" X 9" ENVELOPE  
CUT / FOLD HERE

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