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parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0381-15T4

MOHAMED ALI,

Complainant-Appellant,

v.

DON'S BFF, LLC, d/b/a DON'S
BURGER and GHASSAN SARA,
Individually,

Respondents-Respondents.

Submitted December 14, 2016 – Decided March 3, 2017

Before Judges Alvarez and Accurso.

On appeal from the Division on Civil Rights,
Docket No. EP24WB-63908.

Mohamed Ali, appellant pro se.

Christopher S. Porrino, Attorney General,
attorney for respondent New Jersey Division
on Civil Rights (Andrea M. Silkowitz,
Assistant Attorney General, of counsel; Farn-
Yi D. Foo, Deputy Attorney General, on the
brief).

Respondents Don's BFF, LLC, d/b/a Don's Burger
and Ghassan Sara have not filed briefs.

PER CURIAM

Mohamed Ali appeals from a July 23, 2015 final decision of the Director of the New Jersey Division on Civil Rights (DCR) awarding him \$1000 as damages for sexual harassment. For the reasons stated by the DCR in its written decision, we affirm.

Appellant filed a complaint with the DCR alleging that Don's BFF, LLC, d/b/a Don's Burger and Ghassan Sara violated the New Jersey Law Against Discrimination (LAD), N.J.S.A. 10:5-1 to -49, by subjecting him to sexual harassment and religious discrimination, and discharging him in retaliation for reporting the conduct. Prior to the DCR completing its investigation, Ali requested that the matter be transferred for a hearing to the Office of Administrative Law (OAL) under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6.

Ali, who was self-represented at the hearing, as he is on appeal, presented two witnesses. The Administrative Law Judge (ALJ) who heard the matter found in Ali's favor with respect to the sexual harassment claim, recommending he be awarded \$1000 as compensation for his pain and suffering. The ALJ found that Ali was inappropriately touched on the buttocks on two separate occasions by Sara, who also cursed at him using culturally offensive and sexually explicit foul language.

However, the ALJ did not find that there was a basis to conclude that a hostile work environment was created based on religion. She opined that the remarks about which Ali testified did not rise to that level. Furthermore, Ali left his job for another, was not terminated, and therefore was not entitled to back pay.

The ALJ awarded \$1000 as reasonable compensation for Ali's pain and humiliation and imposed a \$1000 statutory penalty. The company and Sara were jointly and severally liable for payment.

Ali appealed that decision, claiming he was entitled to \$2 million in damages as a result of his employer's conduct. The DCR "adopt[ed] and incorporate[d] by reference the ALJ's factual findings and conclusions of law, the award of damages to [Ali], and the statutory penalty."

Our role in reviewing administrative agency decisions is limited. In re Stallworth, 208 N.J. 182, 194 (2011). We affirm such decisions when they are supported by the evidence, even if we may question the wisdom of the decision or would have reached a different result. Ibid. A "strong presumption of reasonableness attaches to [an agency decision]." In re Carroll, 339 N.J. Super. 429, 437 (App. Div.) (citation omitted), certif. denied, 170 N.J. 85 (2001). An agency's factual findings are binding upon us when supported by adequate, substantial, and credible evidence.

Stallworth, supra, 208 N.J. at 194. We reverse an agency's decision only if we find it to be "arbitrary, capricious, or unreasonable, or [] not supported by substantial credible evidence in the record as a whole." Ibid. (alteration in original) (citation omitted). The burden of establishing that agency action is arbitrary, capricious, or unreasonable is on the appellant. Bueno v. Bd. of Trs., 422 N.J. Super. 227, 234 (App. Div. 2011).

In determining whether agency action is arbitrary, capricious, or unreasonable, we ask if it violates express or implied legislative policies, if the record contains substantial evidence supporting the findings on which the agency based its action, and whether in applying the legislative policies to the facts, the agency erred in reaching a conclusion that could not have been reasonably reached. Stallworth, supra, 208 N.J. at 194 (citing In re Carter, 191 N.J. 474, 482-83 (2007)).

Other than his disagreement with the amount of the monetary damage award, Ali does not identify any error. Our own review of the record establishes that the DCR's decision was not arbitrary, capricious, or unreasonable.

N.J.S.A. 10:5-17 states that a "prevailing complainant" in an action under the LAD "may recover damages to compensate [him] for emotional distress caused by the activities found to be in violation of [the LAD] to the same extent as is available in common

law tort actions." The statute provides no explicit guidance as to the amount of damages that should be awarded to compensate a plaintiff for emotional distress. However, this court has held that "[i]n assessing emotional damages, no precise measurement can be made between a monetary amount and the degree of one's physical or mental suffering. Rather, the only method for evaluating damages is to identify such an amount as reasonable persons estimate to be fair compensation." Spragg v. Shore Care, 293 N.J. Super. 33, 63 (App. Div. 1996) (citing Goss v. Am. Cyanamid Co., 278 N.J. Super. 227, 240 (App. Div. 1994)).

In this case, given the nature of the conduct at issue and the burden which Ali bears to establish that the DCR's decision was arbitrary, capricious, or unreasonable, we agree that the ALJ's original assessment of damages, affirmed by the DCR, was "fair compensation." See Spragg, supra, 293 N.J. Super. at 63. Ali does not offer any reason the DCR erred legally or factually. His complaint is that he disagrees with the amount of the award. Ali's arguments do not warrant further discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION