VERMONT SUPERIOR COURT
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CIVIL DIVISION
Case No. 276-3-20 Cncv

Spinette vs. The University of Vermont and et al

DECISION ON MOTIONS FOR SUMMARY JUDGMENT

Plaintiff Sarah Spinette applied to rent an apartment at the Redstone Apartments, located on the campus of the University of Vermont and State Agricultural College ("UVM"). The manager of the apartments, Catamount Commercial Services, Inc. ("Catamount"), denied her application. Ms. Spinette now sues UVM, Catamount, and the owner of the apartments, Catamount/Redstone Apartments, LLC ("Redstone"), alleging that they discriminated against her in denying her application, and that Catamount and Redstone made discriminatory statements in the process. All three Defendants move for summary judgment, arguing that she cannot prove her claims of discrimination. The court grants the motion.

FACTS

The standard on motions for summary judgment is so familiar as to be almost trite. Here, however, Ms. Spinette's failure to apprehend and meet her burden suggests the advisability of restating the obvious. Under Rule 56, the initial burden falls on the moving party to show an absence of dispute of material fact. *E.g.*, *Couture v. Trainer*, 2017 VT 73, ¶ 9, 205 Vt. 319 (citing V.R.C.P. 56(a)). When the moving party has made that showing, the burden shifts to the non-moving party; that party may not rest on mere allegations, but must come forward with evidence that raises a dispute as to the facts in issue. *E.g.*, *Clayton v. Unsworth*, 2010 VT 84, ¶ 16, 188 Vt. 432 (citing *Alpstetten Ass'n, Inc. v. Kelly*, 137 Vt. 508, 514 (1979)). Where that party bears the burden of proof on an issue, if fairly challenged by the motion papers, it must come forward with evidence sufficient to meet its burden of proof on that issue. *E.g.*, *Burgess v. Lamoille Housing P'Ship*, 2016 VT 31, ¶ 17, 201 Vt. 450 (citing *Poplaski v. Lamphere*, 152 Vt. 251, 254–55 (1989)). The evidence, on either side, must be admissible. *See* V.R.C.P. 56(c)(2), (4); *Gross v. Turner*, 2018 VT 80, ¶ 8, 208 Vt. 112 ("Once a claim is challenged by a properly supported motion for summary judgment, the nonmoving party may not rest upon the allegations in the pleadings, but must come forward with admissible evidence to raise a dispute regarding the facts."). The court must view all evidence in the light most favorable to the non-moving

party and give that party the benefit of all reasonable doubts and inferences. *Carr v. Peerless Ins. Co.*, 168 Vt. 465, 476 (1998).

Here, UVM met its initial burden; it filed a statement of undisputed material facts, amply supported by citations to and copies of the record. *See* V.R.C.P. 56(c)(1)(A). The burden therefore shifted to Ms. Spinette to demonstrate a genuine dispute as to those facts. This she could do either by filing a responsive statement with citations and references of her own, *id.*, or by otherwise "showing that the materials cited do not establish the absence . . . of a genuine dispute, V.R.C.P. 56(c)(1)(B). She did neither; instead, she asked the court, pursuant to V.R.C.P. 56(d), to defer decision and allow her to take discovery on certain matters. Her counsel's affidavit in this regard, however, suggests no need for discovery to meet any of the assertions of material fact set forth in UVM's statement.[1] Thus, the court deems all material facts set forth in UVM's statement undisputed for purposes of these motions.[2] V.R.C.P. 56(e)(2).

Viewed through this lens, the following facts emerge. UVM owns the real estate located at 500 South Prospect Street in Burlington. It leases the land to Redstone, which owns the buildings, collectively known as the Redstone Apartments, on the property. Catamount manages the property.

The Redstone Apartments were conceived and built as student housing. The project's permitting history reflects this intention. As the entity that owns the buildings has changed hands over time, the terms of the ground lease have been amended and restated, but one concept has remained unchanged: the Redstone Apartments are—and always have been—student housing. Per the ground lease between UVM and Redstone, only "Permitted Tenants" may live in the apartments Exhibit D to the lease, in turn, defines Permitted Tenants: "full time Junior, Senior, or Graduate Students as defined by University rules and regulations." Exh. 1 at 36. In the event of a surplus of units beyond those requested by Permitted Tenants, the building owner may notify the Department of Residential Life of UVM and request permission to rent to other tenants. The ground lease then allows the building owner to rent to "[s]tudents at other area institutions of higher education who have achieved the status of Junior, Senior or Graduate Student as defined by University of Vermont requirements or their

[1] While not specifically couched in such terms, the Rule 56(d) affidavit from Ms. Spinette's counsel suggests the need for discovery to meet at most three of UVM's factual assertions: (1) "There is no evidence in the record that Catamount/Redstone Apartments, LLC has leased or permitted someone to sublease a room at Redstone Apartments who was not a UVM student." Def.'s SUMF ¶19; (2) "There is no evidence in the record that Redstone or UVM has knowingly permitted or approved a non-student to occupy any room at Redstone Apartments." *Id.* ¶ 20; and (3) "At the time Ms. Spinette applied to sublet at Redstone Apartments, Redstone only permitted UVM students approved by UVM's Residential Life department to lease or sublease there." *Id.* ¶21. Because the court has determined that these factual assertions are not material, it need not determine whether they are the subjects of genuine dispute. Hence, there is no need to defer decision to allow discovery on these questions.

[2] Catamount and Redstone did not submit their own statement of undisputed material facts. Instead, they simply adopted and incorporated UVM's as their own.

equivalent" or to "Other Tenants, but in no event shall they be college or University freshmen or sophomores, except students subletting who have completed their sophomore year may rent as tenants." *Id.*

Catamount and UVM have both construed and applied these provisions to limit not only tenants and subtenants, but all residents of the Redstone Apartments. In short, for purposes of determining who may reside at the Redstone Apartments, tenants and occupants are one and the same. Redstone enters into leases on a room-by-room basis and does not define occupant separately. Every tenant at the Redstone Apartments signs a lease for one bedroom, and if someone—like Ms. Spinette—wanted to rent more than one bedroom, she would have to sign more than one lease. And critically for purposes of this case, whether sharing a single bedroom with a tenant or subtenant or occupying a separate bedroom, the second occupant would also have to be a Permitted Tenant.

In March 2018, Julianne Heisler, Real Estate Manager in UVM's Real Estate Operations Department, received a phone call from Beth Perlongo, Catamount's Director of Student Housing, about an inquiry that Catamount had received about a person wanting to live at another student housing complex with a non-student child. Like the Redstone Apartments, the ground lease for that complex contained language restricting occupancy to Permitted Tenants. On March 8, 2018, after researching the matter, Ms. Heisler responded to Ms. Perlongo: "Regarding our conversation about children living at Redstone Lofts, a request you may hear from time to time now that we don't have our own Graduate Housing. I spoke to Kim Parker of ResLife and there isn't a policy that prohibits children living in halls, but the rules and regulations clearly stipulate housing is for students. This includes Redstone's properties per Ground Lease terms (below)." Ex. 4 (emphasis in original). In other words, UVM communicated to Catamount its position that only students were permitted to reside at Redstone properties.

In February and March 2018, Ms. Spinette, a graduate student at Brandeis with an upcoming internship at UVM Medical Center, wrote to the email address studentleasing@redstonevt.com, asking if the recipient would post her inquiry seeking a summer sublet in or around Burlington. She stated that she sought a one- or two-bedroom apartment and that her 7-year-old daughter would be with her half time. On March 19, 2018, Sophie Jankowski, an Administrative Assistant at Catamount, responded: "[u]nfortunately, our housing is for students only, so we will not be able to accommodate your request." Exh. 5 at 50. Ms. Spinette then understood that Redstone's housing was for students only. Ex. 9, Depo. of Sarah Spinette, at 77:7–24. Nevertheless, she submitted an application to sublet an apartment at the Redstone Apartments. Ms. Jankowski responded by email that she could not process

Ms. Spinette's requests because "[o]ur agreement with UVM does not allow us to have minors living on our property." Exh. 5 at 50. This, of course, was not entirely accurate. Minors were not prohibited because they were minors; rather, most minors would not qualify as a university student, let alone meet the junior, senior, or graduate student requirement. Ms. Spinette sought clarification. By email dated March 26, 2018, Ms. Perlongo responded:

> The lease agreement that our residents hold at the Redstone Apartments notes that no more than one person may occupy a bedroom space unless a guest has been registered. The item goes on to provide details about the frequency of overnight guests in the space (no more than three consecutive nights and no more than six total days per month.) We are unable to
> approve any sublet arrangements that would increase the occupancy of a bedroom beyond the one person limit. Our occupancy limitations are set by the University of Vermont, the City of Burlington, and by applicable residential codes.
>
> In addition, Redstone holds a ground lease with UVM that specifically outlines our ability to operate a student housing community on their campus. It indicates that our permitted tenants be 'fulltime Junior, Senior, or Graduate Students enrolled at the University as defined by University rules and regulations.' The University does provide some flexibility for our students to sublet to non-UVM students during the summer term, but does require that those subtenants be 'students at other area institutions who have achieved the status of Junior, Senior or Graduate Student.' We have received a similar sublet request recently and l have spoken to my contacts in Campus Planning Services and Residential Life at UVM directly regarding approval to house a minor. They have confirmed these conditions of our ground lease agreement.

Id. at 48–49. This suit followed.

DISCUSSION

On these facts, Ms. Spinette claims first that Catamount and Redstone discriminated against her by stating that she could not reside at Redstone Apartments because she intended to live there with her minor child. She claims next that all three Defendants discriminated against her by refusing to allow her to sublet an apartment because she intended to live in it with her minor child. UVM moved for summary judgment on the second of these claims. Catamount and Redstone joined UVM's motion, but did not move separately for summary judgment on the first claim, which pertains exclusively to them. The court therefore need not address that claim; that discussion must await another motion.

The Fair Housing Act makes it unlawful "[t]o refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of . . . familial status . . . ." 42 U.S.C. § 3604(a). Vermont's analogous statute provides that it is unlawful "[t]o refuse to sell or rent, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling or other real estate to any person . . . because a

person intends to occupy a dwelling with one or more minor children, ..." 9 V.S.A. § 4503(a)(1). When construing Vermont's Fair Housing Act, the court considers federal case law construing the analogous federal provisions. *Hum. Rts. Comm'n v. LaBrie, Inc.*, 164 Vt. 237, 243 (1995).

A person bringing a Fair Housing Act claim may prove her case by direct or indirect evidence. *See Id.* at 244. Where there is no direct evidence, courts apply the burden-shifting test first articulated in *McDonnell Douglas Corp. v. Green,* 411 U.S. 792 (1973). *See LaBrie*, 164 Vt. at 244 n.2 ("In the absence of direct evidence of discrimination, we have applied the *McDonnell Douglas* burden-shifting framework."). Here, Ms. Spinette argues that the *McDonnell Douglas* test is inapplicable because she has direct evidence of discrimination in two forms: first, what she describes as a facially discriminatory policy; and second, in the form of Ms. Jankowski's second email. This argument fails on both counts.

On the first count, a policy that discriminates based on student status is not facially discriminatory. As the United States Supreme Court has explained in the analogous Title VII context, "[w]hether [a] practice involves disparate treatment through explicit facial discrimination does not depend on why the employer discriminates but rather on the explicit terms of the discrimination." *Int'l Union, United Auto. Aerospace & Agric. Implement Workers of Am. v. Johnson Controls, Inc.*, 499 U.S. 187, 199 (1991). Here, the "explicit terms of the discrimination" are based on a prospective occupant's student status. That clearly is not a protected class. As the Second Circuit observed in an analogous case, there is "no basis for concluding that [a university's] general policy of not providing on-campus dormitory housing to spouses, domestic partners, or dependents of [university] students (unless those spouses, domestic partners, or dependents are also [university] students) is facially discriminatory, because the FHA does not identify non-student status as a protected class." *Whitaker v. New York Univ.*, 531 F. App'x 89, 90 (2d Cir. 2013); *see also Wilson v. Glenwood Intermountain Properties, Inc.*, 98 F.3d 590, 594 (10th Cir. 1996) ("The Fair Housing Act does not make it unlawful for landlords to give preference to college students over non-students."); *SPUR at Williams Brice Owners Ass'n, Inc. v. Lalla*, 781 S.E.2d 115, 124 (S.C. Ct. App. 2015) (restriction prohibiting rental to students was "wholly unrelated to any classification protected by state and federal housing laws").

Ms. Spinette argues further that "Defendants' stated policies of (a) requiring each occupant of a dwelling at Redstone Apartments to sign a separate lease; (b) allowing only one person per bedroom, and (c) allowing no occupant who is not a tenant are facially discriminatory since Defendants know that minor children cannot be bound by contract." Pl.'s Opp. at 14. This argument is a red herring. While it is true that minors cannot be bound by contract, that has nothing to do with anyone's family status; it is a function exclusively of their minority. Equally, there is nothing in the policy to prevent a

parent or other guardian from entering into a contract on behalf of a minor child; the court expects that this happens frequently in the college housing context for students who enter post-secondary education before their eighteenth birthdays. In short, there is nothing about these policies that is facially discriminatory based on anyone's family status.

Finally, Ms. Spinette argues that UVM's students only policy is facially discriminatory because it has a "disparate impact on qualified applicants with children." It bears noting that this is not, properly, a "direct evidence" argument; indeed, disparate impact evidence is the antithesis of direct evidence. "In order to establish a prima facie case of disparate impact, the plaintiff must provide evidence showing '(1) the occurrence of certain outwardly neutral practices, and (2) a significantly adverse or disproportionate impact on persons of a particular type produced by the defendant's facially neutral acts or practices.' " *Quad Enterprises Co., LLC v. Town of Southold*, 369 Fed. Appx. 202, 206 (2d Cir. 2010) (quoting *Tsombanidis v. W. Haven Fire Dep't*, 352 F.3d 565, 573 (2d Cir.2003)). Obviously, "outwardly neutral practices" are the polar opposite of direct evidence of discrimination. Thus, this argument does not support Ms. Spinette's assertion that she does not have to satisfy the *McDonnell Douglas* test.

Indeed, the Vermont Supreme Court has expressly concluded otherwise. "In assessing claims of discrimination based on disparate impact, we apply the burden-shifting analysis employed in *McDonnell Douglas Corp. v. Green*, ..." *In re Scott*, 172 Vt. 288, 294 (2001)). The *Scott* decision has been criticized, perhaps correctly, for "conflat[ing] the disparate treatment and disparate impact standards, and then erroneously appl[ying] the disparate impact standard to conclude that there was no disparate treatment." *Bauer v. Holder*, 25 F.Supp.3d 842, 858 (E.D.Va. 2014). Indeed, courts analyzing disparate impact cases generally do not apply the *McDonnell Douglas* test, *see, e.g., Geller v. Markham*, 635 F.2d 1027, 1032 (2d Cir. 1980) (discussing and distinguishing different *prima facie* burdens for disparate treatment and disparate impact cases, per *McDonnell Douglas* and *Griggs v. Duke Power Co.*, 401 U.S. 424 (1970), respectively).

The court need not wade into these waters, however, because Ms. Spinette's disparate impact argument fails for a much more fundamental reason. Ms. Spinette has now amended her complaint twice. In none of the three iterations of her complaint did she assert either facts or conclusions that would give Defendants and the court the slightest hint that she was asserting a disparate impact claim. *See* Reporter's Notes, V.R.CP. 8 (While "the rules do not require a specific and detailed statement of the facts which constitute a cause of action," they do require "a statement clear enough 'to give the defendant fair notice of what the plaintiff's claim is and the grounds on which it rests."). Moreover, in

failing to make any factual submission in response to Defendants' motions, she has failed to support any disparate impact claim factually. Thus, the court rejects this argument as unfounded in either the pleadings or the motion papers. *See Sarvis v. Vermont State Colleges*, 172 Vt. 76, 84 ("Plaintiff has not specifically pled a disparate impact claim, and we need not consider it here."); *Lavalley v. E.B. & A.C. Whiting Co.*, 166 Vt. 205, 214 ("A theory of disparate impact should be pled specifically in the complaint.").

On the second count, Ms. Jankowski's email is not direct evidence of discrimination for three reasons. First, the statement in the email—"[o]ur agreement with UVM does not allow us to have minors living on our property"—is not discriminatory. Neither the federal nor the state statute make minority a protected class. Rather, under the federal statute, it is "family status," in turn defined as a minor living with a custodial adult, 42 U.S.C. § 3602(k); under the Vermont statute it is only "minor children," 9 V.S.A. § 4503(a)(1). Under either statute, to be protected an individual must be both a minor and an offspring (or ward).[3] Second, even if Ms. Jankowski's statement could be construed as discriminatory based on family status, that would clearly be a misstatement of the UVM policy, and so not direct evidence of discrimination. *See, e.g., McCurdy v. Ala. Disability Determination Serv.*, No. 2:13-CV-934-DAB, 2017 WL 1045063, at *9 (M.D. Ala. Mar. 17, 2017) ("[M]istakes, misjudgments and inaccurate information may reflect poor management, but they do not directly show discrimination."), *aff'd*, 753 F. App'x 784 (11th Cir. 2018). Third, there is no evidence that Ms. Jankowski was a decisionmaker or otherwise so placed in either the UVM or Redstone/Catamount organization to make her statements direct evidence of discrimination. *See, e.g., Price Waterhouse v. Hopkins*, 490 U.S. 228, 277 (1989) (O'Connor, J., concurring) ("Nor can statements by nondecisionmakers, or statements by decisionmakers unrelated to the decisional process itself, suffice to satisfy the plaintiff's burden in [making out a *prima facie* case of discrimination]."); *Gallagher v. Magner*, 619 F. 3d 823, 831 ((8th Cir. 2010) ("Direct evidence does not include stray remarks in the workplace, statements by nondecisionmakers, or statements by decisionmakers unrelated to the

[3] Clearly, in this context, the term, "children" in the Vermont statute connotes not age but relationship. To construe it otherwise would read the word "minor" out of the statute. *See In re Mountain Top Inn & Resort*, 2020 VT 57, ¶ 37, 212 Vt. ("We consider the whole and every part of the statute and avoid a construction that would render part of the statutory language superfluous.") (citation and quotations omitted). Surely the legislature cannot have meant "minor minors" or "children children"; its use of the two terms in conjunction therefore admits of only one construction. *See Baldauf v. Vermont State Treasurer*, 2021 VT 29, ¶ 19 ("In general, we presume that the Legislature chooses statutory language intentionally, so different words carry different meanings."). "Minor" connotes age; "children," family relationship.

decisional process itself."); *Mohamed v. McLaurin*, 390 F. Supp. 3d 520, 552 (D. Vt. 2019) (quoting *Gallagher v. Magner*). Thus, Ms. Jankowski's statement is not direct evidence of discrimination.[4]

There being no direct evidence of discrimination, the court proceeds to evaluate Ms. Spinette's discriminatory acts claim under the *McDonnell Douglas* framework. *LaBrie,* 164 Vt. at 244 n.2. Under that framework, a plaintiff must first establish a prima facie case of discrimination by demonstrating "(1) that they are members of a protected class; (2) that they sought and were qualified to rent or purchase the housing; (3) that they were rejected; and (4) that the housing opportunity remained available to other renters or purchasers." *Mitchell v. Shane*, 350 F.3d 39, 47 (2d Cir. 2003); *see also Robertson v. Mylan Lab'ys, Inc.*, 2004 VT 15, ¶ 25, 176 Vt. 356 (applying *McDonnell Douglas* framework in context of employment discrimination). Once the plaintiff establishes a prima facie case of discrimination, the burden shifts to the defendant to show a "legitimate, non-discriminatory reason" for the rejection. *Id.*, ¶ 26. If the defendant meets this burden, the burden then returns to the plaintiff to prove that the "justification is a mere pretext for discrimination. *Id*., ¶ 27.

In this case, Ms. Spinette has sufficiently established that as a parent with a minor child, she was a member of a protected class. Her claims falter, however, on the second criterion. In a case closely analogous to this, the United States Court of Appeals for the Second Circuit (with no less a luminary than the late, well respected Judge Peter Hall on the panel) held that "[i]n order to satisfy the 'qualified' element, the renter must meet the applicable criteria that the owner established." *Whitaker*, 531 F. App'x at 91. There, as here, the university had denied an application for on-campus housing to a student who wanted to live with her non-student child. *See Whitaker v. New York Univ*., No. 09CIV8410LTSAJP, 2011 WL 13130800, at *1–2 (S.D.N.Y. July 19, 2011). There, as here, the university had a policy that allowed family members to reside in student housing only if they also were students. *Id.* at 1. There, as here, the plaintiff "would have been qualified to obtain on-campus housing if she sought to live alone." *Whitaker*, 531 F. App'x at 91. Nevertheless, the Second Circuit concluded that "she did not qualify for on-campus housing for both herself and her son based on NYU's objective criteria." *Id.*

Ms. Spinette argues that this court should not rely on *Whitaker* for a number of reasons. None of these holds water. First, she asserts that the *Whitaker* plaintiff had no direct evidence; as demonstrated above, however, neither has she. Second, she asserts the *Whitaker* plaintiff failed to meet her *prima facie* burden; this overlooks the fact that neither has she, for the very same reason that the Second

[4] As noted above, Catamount and Redstone did not move for summary judgment on Ms. Spinette's discriminatory statement claim. Thus, the court need not decide at this time whether Ms. Jankowski's statement—or any other statement, for that matter—to the extent it could be argued to be discriminatory, is attributable to either of those entities.

Circuit concluded that the *Whitaker* plaintiff had failed. *Id.* Third, she asserts that the *Whitaker* plaintiff was not "otherwise qualified" because she was not a full-time student; again, this overlooks the fact that the Second Circuit concluded that the plaintiff there was indeed qualified, but for the fact that she sought housing not just for herself but her non-student son.[5] In short, *Whitaker* is as close to being on all fours with this case as one could hope.

This leaves only the critiques that "Whitaker is a summary opinion that may not be cited as precedent," and "the *Whitaker* plaintiff appeared *pro se* in the Second Circuit, depriving that court of full briefing." Pl.'s Opp. at 19–20. Neither of these critiques sticks. First, while it is true that summary opinions of the Second Circuit do not have precedential effect, that does not preclude a party from citing or a court from relying on them, to the extent cogent and persuasive. *See* Reporter's Notes, F.R.A.P. 32.1(a) ("Under Rule 32.1(a), a court of appeals may not prohibit a party from citing an unpublished opinion of a federal court for its persuasive value or for any other reason."). Second, a review of the record reflects that the Second Circuit did have the benefit of robust briefing, and a comparison of its decision with both the District Court's decision and the parties' briefs makes clear that the Second Circuit did not simply affirm reflexively; rather, it "conducted an independent and *de novo* review of the record." *Whitaker*, 531 F. App'x at 91. Ultimately, the court did not embrace the District Court's determination on the "qualified" element, instead reaching its own conclusion on different grounds. These factors, along with the court's respect for the Second Circuit and its jurists, support the conclusion that *Whitaker* is highly persuasive, even if not binding precedent.

At the end of the day, Ms. Spinette's assertion that she was "qualified" relies on a logical *non sequitur*: because she was a graduate student, she was qualified. This of course is true, as far as it goes. But it was not only herself for whom she sought housing; she sought also to include her non-student daughter, in the face of a policy that requires that all residents be students. That she was qualified for housing for herself alone does not make her qualified for housing with another. Rather, UVM properly considered the eligibility of each individual for whom Ms. Spinette sought student housing. Her daughter not being eligible because she was not a student, as long as the daughter was part of the application, Ms. Spinette was not qualified for the housing she sought.

This conclusion obviates the necessity of considering whether the Defendants had a "legitimate, non-discriminatory reason" for rejecting Ms. Spinette's application and if so, whether Ms. Spinette can establish that the proffered reason was simply a pretext. *See Robertson v. Mylan Lab'ys, Inc.*, 2004 VT

[5] While it is true that the District Court in *Whitaker* concluded that the plaintiff was not qualified because not a full-time student, the Second Circuit expressly based its decision on the fact that while the plaintiff herself was qualified, her non-student son was not.

15, ¶¶ 26–27. As noted in footnote 1 above, Ms. Spinette sought to defer decision on these motions to allow her "to obtain fully responsive answers to her discovery." Pl.'s Opp. at 2. She asserted that the "unavailable facts" were relevant to her argument that she was "otherwise qualified." The discussion above makes clear that those "facts" are not relevant to the determination of qualification. They might be relevant to demonstrate pretext, but pretext is relevant only if Ms. Spinette can meet her *prima facie* burden. She cannot, and so there the inquiry ends.

ORDER

The court grants both motions for summary judgment. All three Defendants are entitled to judgment as a matter of law on Ms. Spinette's claims that they discriminated against her by denying her application for housing in the Redstone Apartments. As noted above, Catamount and Redstone have not moved for summary judgment on the claim that they made discriminatory statements to Ms. Spinette. Thus, that claim remains for further proceedings. The clerk will schedule a status conference to discuss the plan for resolving the remaining claim. The parties may avoid that conference by filing an amended discovery/ADR stipulation.

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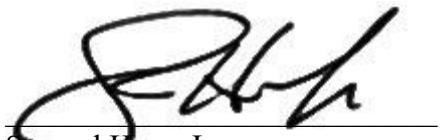

Samuel Hoar, Jr.
Superior Court Judge