

## WOMEN SUE THEIR EMPLOYERS, CLAIMING THAT THE MEN ARE MAKING MORE



Four women working at a Minnesota power company as field representatives filed a lawsuit against their employers, alleging unfair pay practices. More precisely, they claimed that they were being paid less than male employees. The women all worked at Northern States Power Company, three of them at the company's Chestnut Service Center in the Twin Cities area and the fourth woman at its St. Cloud Service Center. All of the female employees had been working at the company for a number of years and became field representatives in 1997-98, their duties including the collection of payments from delinquent customers and disconnecting utilities of those who had not paid. The company utilized a "red circling" policy, by which employees named field representatives retained their base pay. Accordingly, the initial pay in that position was dependent upon the individual. Increase in pay was based on a performance evaluation system called the Individual Performance and Development (IPAD). It rated employees numerically, ranging from 1 to 5, and took into account such aspects as the total amounts collected, the amount of disconnects and reconnects, attendance, customer complaints, safety



violations, etc. Employees were then awarded a raise in annual wage corresponding to the IPAD rating. When first assigned as field reps, two of three women at the Chestnut facility had a base pay similar to two male employees, while other males' pay was higher and some were lower. The third woman was making more than a number of her male co-workers and less than others. Several male employees became field reps after the three women and started with base pays that were higher. The four women filed a complaint, alleging violations of the Equal Pay Act (EPA), the Minnesota Human Rights Act (MHRA), and Title VII of the Civil Rights Act. The district court granted summary judgment to the company, not believing that the plaintiffs had established a prima facie case; in other words, there was not sufficient evidence for a conviction. As there was a lack of evidence of wage discrimination in relation to the EPA claim, the court further dismissed the other two counts, as EPA standards correspond with Title VII and are used to analyze MHRA claims. On appeal, the plaintiffs stated that the district court had erred in ruling that a prima facie case had not been established. The Court of Appeals cited the district court's comment that showing a pattern in which the protected class (in this case, the employees alleging discrimination) is sometimes more favored and sometimes less than the others is not adequate evidence. Looking at 2008-09 (the year before and year of the filed complaint), the three women at the Chestnut facility received high ratings and equivalent raises, while the female employee at the St. Cloud facility had ratings and raises higher than her male co-workers, receiving the highest possible IPAD rating of 5 in 2008. The women acknowledged that their IPAD ratings did not appear to be discriminatory. The plaintiffs also argued that the two service centers should have been considered a singular establishment, but as not all of the same duties were handled by each service center, the appeals court did not agree. The district court's decision was affirmed.