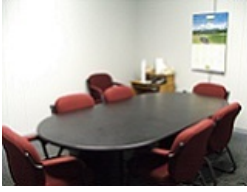


MAN CLAIMS HE WASN'T HIRED DUE TO PREVIOUS COMPLAINT AGAINST THE CITY



A man sued the City of St. Paul, MN, and the City's mayor when he wasn't appointed as director of the Human Rights and Equal Economic Opportunity. He alleged, among other claims, that he was denied the position due to a prior complaint against the City. The man had previously worked for the City as its director of the Office of Affirmative Action and the Coordinator of Minority Business Development and Retention. After he was terminated from his employment, he brought action against the City, claiming violations of civil and whistleblower rights. Both parties eventually reached a settlement, with no one admitting any liability. Several years later, the City was looking for a director of its new department, and a 13-person committee was assembled. The man was one of 31 people who applied for the position and later one of eight applicants selected for interviews. He was interviewed by the committee, during which he was asked about his whistleblower allegations. The candidates were narrowed down to three, including the man in question. The three finalists then appeared at a community interview forum and were separately interviewed by the mayor and the deputy mayor. The position was subsequently offered to another applicant, who turned it down. The other applicant likewise declined an offer, leaving the man as the only remaining candidate. He, however, was not made the same offer. Instead, the committee identified three more applicants as finalists, one of whom withdrew from consideration and another who withdrew prior to the interview with the mayor. The final candidate was offered the job, and she accepted.



The man responded with a lawsuit, making seven claims, including violations of the Civil Rights Act, the Minnesota Human Rights Act and the Education Amendments of 1972. He also alleged violations of due process, conspiracy to deny him employment because of his involvement in protected activity and intentional infliction of emotional distress. The district court granted summary judgment in favor of the defendants and dismissed all claims. The plaintiff appealed the ruling. Appellate judges, with regard to the due process claims, noted that the man had no "legitimate claim of entitlement" to the director position, particularly since an ordinance granted "considerable discretion" to the mayor and the committee in choosing an applicant. For the claim citing his lawsuit against the City from years before, the plaintiff stated that a woman, against whom the man had filed a workplace conduct complaint, was part of the committee. However, she had recused herself from the committee interview, and the plaintiff had been named a finalist in spite of her committee seat. For the other alleged violations, the appeals court did not believe that the man had provided sufficient evidence, particularly the claim of intentional infliction of emotional distress, which involves a "high threshold standard of proof" and would effectively claim that the City appointing another applicant was "extreme and outrageous conduct." The district court's decision was affirmed.