

STATE OF MICHIGAN
COURT OF APPEALS

SHONDA COCKE,

Plaintiff-Appellant,

v

TRECORP ENTERPRISES, INC.
d/b/a BURGER KING,

Defendant-Appellee.

UNPUBLISHED

February 20, 1998

No. 198021

Genesee Circuit Court

LC No. 93-019891-NO

SAAD, J. (*dissenting*).

I respectfully dissent only as to the sexual harassment claim; I would find that plaintiff's proffered evidence of a hostile environment was insufficient, as a matter of law, to establish respondeat superior.

Here, the shift managers were low-level supervisors of plaintiff, without the authority to discipline Brownell. Accordingly, even if they had knowledge of the details of plaintiff's allegations, this was insufficient to establish respondeat superior. However, when Turner (who was Director of Operations) became aware of plaintiff's complaints, he immediately met with plaintiff to detail her allegations and took prompt disciplinary action against Brownell (transferring him to another location so that plaintiff did not have to work with him). It is clear in Michigan and elsewhere, that liability for a hostile work environment claim may be avoided where an employer investigates and takes prompt and appropriate remedial action upon notice of the alleged hostile work environment. *Downer v Detroit Receiving Hospital*, 191 Mich App 232, 234; 477 NW2d 232 (1991). In my view, this was done here, and I would affirm the trial court's disposition in all respects.

/s/ Henry William Saad