

Hypothetical – Does it prove discrimination?

Complainant (Asian, female) applied for a promotion within her office, from the position of GS-12 Specialist to the position of GS-13 Specialist. One of Complainant's co-workers, Selectee (Caucasian, male) also applied for the position. Complainant's first-line supervisor (RMO) (Caucasian, female) was the selecting official. Selectee was selected for the promotion, and Complainant was non-selected.

RMO states that interviews were conducted, and Complainant and Selectee received identical scores. Therefore, RMO considered her own experience supervising Complainant and Selectee. Although RMO had only supervised the unit for six months, she felt that was long enough to evaluate both Complainant and Selectee. In that regard, she made the following determinations.

First, the position at issue involved significant customer service-type contact. RMO felt that Complainant had some weakness in this area. There had been instances in which Complainant was gruff or impatient with people looking to her for advice, and RMO had received occasional customer complaints in that regard.

Second, during RMO's tenure as supervisor on the unit, she had observed the work of both Complainant and Selectee, and Selectee consistently handled a heavier workload and produced better work products than Complainant.

In her rebuttal affidavit, Complainant states that no one has ever criticized her customer service skills. No one has ever complained or informed her that she came across as gruff or impatient in any customer service type interaction.

Complainant states that prior to the selection, Selectee had been serving an extended detail assignment halfway across the country. This began one month after RMO became the unit's supervisor. Although Selectee continued to do work for the office during the detail, RMO had no direct oversight of his work product or his workload.

Based on the information raised in Complainant's rebuttal affidavit, RMO is re-interviewed.

RMO states that Selectee was indeed on an out-of-office extended detail during most of RMO's tenure as supervisor. However, RMO and Selectee spoke frequently on the phone about workload, and RMO also talked to the customers that Selectee served, and received favorable feedback about Selectee's work.

RMO also states that she had received some minor customer complaints about Complainant's gruff attitude, but RMO had never documented any of those complaints, and she could not recall the names of any of the individuals who had ever complained about Complainant. RMO stated that when she had received the complaints, she had talked to Complainant about them, and Complainant had acknowledged to RMO that she could sometimes come across as impatient with people. No one had witnessed this dialogue and it was never documented.