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SUPERIOR COURT OF WASHINGTON  
FOR KING COUNTY

TONI GAMBLE,  
  
                    Plaintiff,  
  
          vs.  
  
CITY OF SEATTLE, a municipal  
corporation,  
  
                    Defendant.

Case No.: 15-2-10231-1  
  
SECOND AMENDED COMPLAINT  
FOR DAMAGES, INJUNCTIVE AND  
DECLARATORY RELIEF

**I.      JURISDICTION**

1.1      The Plaintiff, Toni Gamble, is a woman over 40 years of age. At all times relevant to this complaint she was a citizen of the United States residing in Kittitas County, and is employed by Seattle City Light/City of Seattle.

1.2      The Defendant, Seattle City Light has its headquarters in King County, Washington, is a publicly owned utility, a municipal corporation, and is organized and exists under the laws of the State of Washington.

1 **II. FACTS**

2 2.1 Defendant Seattle City Light is a Department of the City of Seattle, and a  
3 public utility created in 1910 to supply electricity and related services to over 400,000  
4 customers in the City of Seattle and 8 adjacent jurisdictions within King County,  
5 Washington.

6 2.2 The Electric Service Representative Unit and the Electric Service  
7 Engineering Unit are units within the Customer Care Division of the Department of Seattle  
8 City Light.

9 2.3 Plaintiff, Ms. Gamble, was hired by Seattle City Light on or about October  
10 19, 1987, as a laborer.

11 2.4 Ms. Gamble first injured her back in a workplace injury in 1989.

12 2.5 Ms. Gamble was promoted to Lineworker Pre-Apprentice in 1992.

13 2.6 Ms. Gamble was authorized to attend a 2-year PREP class (preparation for  
14 supervision) in 1992.

15 2.7 Ms. Gamble was promoted to Power Structure Mechanic (heavy equipment  
16 operator) in 1993. She was the first female to ever hold that position on a permanent basis  
17 at Seattle City Light.

18 2.8 Ms. Gamble had a chronic back injury, of which the City had notice.

19 2.9 Ms. Gamble was promoted to Electrical Constructor apprentice in 1993.  
20 However, upon reinjuring her back in the workplace in 1996, City officials informed Ms.  
21 Gamble that she could no longer perform the essential functions of the Electrical  
22 Constructor position and directed her to find another position within the organization that  
23 would meet her lifting restriction.

24 2.10 In 1996, Ms. Gamble took a position with Seattle City Light as an Electric  
25 Service Representative (“ESR”), a change in position that resulted in a reduction in pay,

1 which was the position she took after being told that City Light would not accommodate  
2 her in the Electrical Constructor position.

3 2.11 As an ESR, prolonged sitting affected Ms. Gamble's ability to do her job  
4 and she requested accommodation, including a standing workstation, since the time she  
5 began working as an ESR.

6 2.12 In 1999, Ms. Gamble was promoted to Senior ESR, which resulted in an  
7 increase in pay. During this time, Ms. Gamble's chronic injury worsened and she was  
8 unable to work or return to work until 2001. During this time, the City paid her no salary  
9 or benefits.

10 2.13 Ms. Gamble returned to work in 2001 as a Senior ESR position. Her  
11 manager at the time was Bryan Leuschen, Manager of Customer Engineering.

12 2.14 From 2001 to 2006, Ms. Gamble worked intermittent Out of Class as an  
13 ESR Supervisor; and from 2006 to 2007, Ms. Gamble worked Out of Class as an ESR  
14 Supervisor on a full-time basis. As an out of class ESR Supervisor, Ms. Gamble received a  
15 higher rate of pay commensurate with the position.

16 2.15 In 2007, Ms. Gamble was promoted to a permanent ESR Supervisor, during  
17 which time she supervised Residential and Commercial ESRs and administrative staff, and  
18 provided training to members of her department.

19 2.16 In December 2008, Ms. Gamble applied for an Electric Service Engineer  
20 ("ESE") position, but was not interviewed and the position was not filled.

21 2.17 In February 2009, Ms. Gamble's manager, Margy Jones, requested that she  
22 work as an Out of Class ESE in the unfilled position, which Ms. Gamble did for  
23 approximately one year.

1           2.18    In February 2010, Ms. Gamble's back was reinjured in the workplace while  
2 performing her normal duties, and required spinal fusion surgery. From February 2010  
3 through July 2011, Ms. Gamble was intermittently off work.

4           2.19    In May 2010, Ms. Gamble applied for a second time for a permanent ESE  
5 position and was interviewed, however, as she had not yet returned to full-time work from  
6 her workplace injury, the position was awarded to Ian Cooper, who had no engineering  
7 degree.

8           2.20    When Ms. Gamble returned to work in July 2011 following the surgery, she  
9 was placed back in an ESR supervisor position, at which time she reported directly to  
10 manager Bryan Leuschen.

11          2.21    In September 2011, Ms. Gamble was promoted to an out of class position as  
12 manager of the North Service Center ESR group, where she managed a group of 25  
13 employees, including four supervisors in the Customer Care Department, and reported  
14 directly to Kelly Enright.

15          2.22    In February 2012, Ms. Gamble applied for and accepted an Out of Class  
16 Supervisor position in Operations, which offered higher pay and experience in operations.  
17 In that position, Ms. Gamble supervised 35 workers and apprentices in the Overhead &  
18 Underground electrical crews in the installation and maintenance of Seattle City Light's  
19 electrical distribution system.

20          2.23    Ms. Gamble received good performance reviews for this position, and her  
21 rating supervisor stated that he would like to see her return to the position.

22          2.24    Up to this time, Ms. Gamble received positive reviews in her annual  
23 Employee Performance Reviews, consistently meeting or exceeding expectations.

24          2.25    In March 2012, David Wernli was hired as Manager of Customer  
25 Engineering, and managed the ESE group and the North Service Center ESR group, while

1 her current manager, Bryan Leuschen, remained manager over the South Service Center  
2 ESR group.

3 2.26 In April 2012, Ms. Gamble applied for an Out of Class ESE position and  
4 was interviewed for the position.

5 2.27 The interview panel consisted of Kelly Enright, David Wernli (who  
6 reported to Ms. Enright) and Abdi Yuseff, an ESE.

7 2.28 Ms. Gamble received high ratings from all three interviewers.

8 2.29 At this time, Ms. Gamble had performed as an Out of Class ESE, had  
9 worked for Seattle City Light since 1987 in multiple positions and received extensive  
10 trainings in all areas of SCL operations.

11 2.30 Seattle City Light instead hired Ben Rushwald, a male approximately 31  
12 years old for the Out of Class ESE position. Mr. Rushwald had worked for Seattle City  
13 Light for only one year as a Power Analyst. Upon information and belief, Mr. Rushwald  
14 originally received 2 medium ratings and one high rating, but these marks were eventually  
15 changed so that he received all high ratings.

16 2.31 The job qualifications for the ESE position required “[f]ive years of  
17 professional electrical engineering or electrical sales engineering experience, and a  
18 Bachelor’s degree in Electrical Engineering (or a combination of education and/or training  
19 and/or experience which provides an equivalent background required to perform the work  
20 of this position.”)

21 2.32 Kelly Enright justified the hiring of Mr. Rushwald based on his mechanical  
22 engineering degree and master’s degree, even though the qualifications called for  
23 education in electrical engineering, not mechanical engineering. Ms. Gamble had more  
24 than twenty years of experience directly relevant to the ESE position.

25

1           2.33   Jon Trout was hired on or about August 27, 2012 as Customer Electrical  
2 Services Manager. In this position, he became Ms. Gamble's direct supervisor. Mr. Trout  
3 reported directly to David Wernli, Manager of Customer Engineering.

4           2.34   Beginning in September 2012, Mr. Trout began immediately affecting Ms.  
5 Gamble's working conditions by repeatedly changing her job assignments, scheduling  
6 trainings that he wanted her to conduct without coordinating with her first, and repeatedly  
7 changing her duty stations between the North and the South Service Centers.

8           2.35   In October 2012, Mr. Trout also began to make negative comments  
9 regarding Ms. Gamble's attendance and sick leave, despite the fact that her leave was  
10 authorized.

11          2.36   On October 2, 2012, Ms. Gamble initiated a complaint regarding Mr.  
12 Trout's negative comments regarding her authorized leave to Heather Proudfoot, Seattle  
13 City Light Employee Relations Manager, and then to Stefani Coverson, Seattle City Light  
14 Equal Opportunity Coordinator.

15          2.37   Throughout October, Mr. Trout continued to set up training sessions  
16 without consulting Ms. Gamble, and continued changing her job duties.

17          2.38   Ms. Gamble complained to her Director, Ms. Enright, about Mr. Trout on  
18 October 22, 2012 by e-mail. In her email, she informed the Director that she believes Mr.  
19 Trout is setting her up for failure by constantly changing her duties and schedules for  
20 trainings. Ms. Gamble also complained that he treated women differently than men.

21          2.39   Ms. Gamble then applied for a permanent ESE position that was posted on  
22 November 20, 2012.

23          2.40   On November 30, 2012, Ms. Gamble again complained by e-mail to  
24 Director Enright about Mr. Trout regarding unequal treatment based on gender. In this  
25 complaint, she discussed issues with customer service and conflict between instructions

1 given by Trout and Wernli. In addition, she again complained to Enright that Mr. Trout  
2 treats men and women differently. Specifically, she complained that Mr. Trout engages  
3 and takes advice from men in regards to workplace decisions but does not confer or engage  
4 women in any such discussions.

5           2.41    On December 1, 2012, Ms. Gamble and five others were interviewed for the  
6 ESE permanent position. Mr. Wernli and two current ESE's were on the interviewing  
7 panel. The position went to Mr. Rushwald, who was less qualified for the position than  
8 Ms. Gamble.

9           2.42    On December 14, 2012, Ms. Gamble filed an official complaint with  
10 Human Resources regarding discrimination, harassment and retaliation by her managers  
11 and discrimination in the ESE permanent position hiring process. This complaint was  
12 investigated by Meghan Frazer, Employee Relations Advisor.

13           2.43    In December, 2012, Mr. Trout continued to change Ms. Gamble's job duties  
14 and instructions, and then requested weekly supervisor reports even though he knew that  
15 she was not supervising anyone at that time as he had re-assigned her from her training  
16 duties.

17           2.44    On January 11, 2013, Ms. Gamble filed a formal complaint with HR about  
18 discrimination, harassment and retaliation. In addition, she complained that she believed  
19 that her second line supervisor, Mr. Wernli, had spoken in a negative manner about her  
20 with other panel members, thus preventing her from getting the ESE permanent position.

21           2.45    Mr. Trout continued to question Ms. Gamble's time off and refused her  
22 requests to work from home when appropriate, for example refusing to allow her to contact  
23 customers about previously scheduled appointments while home on leave on January 31,  
24 2013. He also questioned her flex time and changes to flex time, even though he permitted  
25

1 male employees to their change flex time and the City's policy permitted employees to  
2 change their flex time.

3 2.46 Mr. Trout also continued to question Ms. Gamble's use of authorized leave.  
4 On February 1, 2013, Ms. Gamble requested to use authorized leave by email to Mr. Trout,  
5 indicating that she was taking sick leave for "fml#2", which had already been certified by  
6 HR. On February 13, 2013, Mr. Trout asked her to further explain her timesheet  
7 references, even though she had clearly indicated which certified condition applied.

8 2.47 On February 15, 2013, Ms. Gamble complained to Ms. Enright about the  
9 harassment and filed an EEO complaint with Seattle City Light Employee Relations. On  
10 this date, Ms. Gamble also complained directly to Mr. Trout about his discrimination.

11 2.48 On February 22, 2013, Mr. Trout again e-mailed Ms. Gamble, accusing her  
12 of additional "errors" on her time sheet.

13 2.49 On February 25, 2013 Mr. Trout and Mr. Wernli e-mailed Ms. Gamble  
14 alleging that she was using "unauthorized" compensatory time, which contradicted past  
15 practice and previous discussions between Ms. Gamble and Mr. Trout.

16 2.50 On February 26, 2013, Mr. Trout conducted Ms. Gamble's 2012  
17 performance evaluation, even though he had been her supervisor for only four months. In  
18 this evaluation, while he rated Ms. Gamble as "Meets Expectations," in it he made  
19 negative comments about her in nearly every section, and indicated that he did not believe  
20 she had actually met expectations.

21 2.51 Mr. Trout made specific comments in the Performance evaluation about the  
22 amount of leave she had taken over a three-year period, directly referring to hours of leave  
23 that she was authorized to use in relation to her disability.

24 2.52 Ms. Enright and Mr. Wernli were involved and approved of the February  
25 26, 2013 performance evaluation before it was issued.

1           2.53 Ms. Gamble applied for numerous ESE permanent and Out of Class  
2 positions after the 2012 performance evaluation was issued. Upon information and belief,  
3 this flawed evaluation was a factor in Seattle City Light's refusal to hire her for these  
4 positions for which she was qualified.

5           2.54 From 2012 onward, persons hired for positions to which Ms. Gamble had  
6 applied were persons who were either men, persons substantially younger than Ms.  
7 Gamble, persons without a disability, and/or persons who had not engaged in statutorily  
8 protected activities.

9           2.55 The job requirements for the 2013 ESE changed from prior years and also  
10 differed in the required qualifications between the approved packets, the posted position,  
11 and the benchmarks to be used in hiring.

12           2.56 In all the years prior to 2013, Ms. Gamble met the qualifications for the  
13 position based on education and experience.

14           2.57 In 2013, the discriminatory changes purported to render Ms. Gamble  
15 unqualified for the position. Mr. Wernli was the person primarily responsible for making  
16 the changes to the job qualification and hiring benchmarks for the ESE position, which Ms.  
17 Enright approved.

18           2.58 Upon information and belief, Mr. Trout also made comments in May 2013  
19 to other supervisors that Ms. Gamble "has a perpetual excuse for not coming in to work"  
20 and "keeps sending in doctor's notes that she needs to stay home." These comments were  
21 made while Ms. Gamble was on authorized leave.

22           2.59 Prior to filing this lawsuit, Toni Gamble properly filed an administrative  
23 claim with the City of Seattle, which satisfied the requirements of state law for persons  
24 who seek to sue the City of Seattle in court. At least 60 days have expired since the filing.  
25



1 **IV. PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays for relief as follows:

3 4.1 Damages for back pay, front pay, lost benefits, and medical expenses in an  
4 amount to be proved at trial;

5 4.2 Prejudgment interest in an amount to be proved at trial;

6 4.3 Damages for loss of enjoyment of life, pain and suffering, mental anguish,  
7 emotional distress, injury to reputation, and humiliation;

8 4.4 Reasonable attorney's fees and costs;

9 4.5 Injunctive relief;

10 4.6 Declaratory relief;

11 4.7 Compensation for the tax penalty associated with any recovery; and

12 4.8 Whatever further and additional relief the court shall deem just and  
13 equitable.

14 **V. DEMAND FOR JURY**

15 5.1 Plaintiff hereby demands that this case be tried before a jury of twelve.

16 Respectfully submitted this 14<sup>th</sup> day of April, 2016.

17 SHERIDAN LAW FIRM, P.S.

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25 Attorney for Plaintiff

1 **CERTIFICATE OF SERVICE**

2 I, Jodie Branaman, certify under penalty of perjury under the laws of the State of  
3 Washington, that on April 14, 2016, I electronically filed the foregoing document with the  
4 Clerk of the Court using the ECR E-Filing system, and served the following persons using  
5 the ECR E-Serve system:  
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