EEOC: Restaurant's Seasonal Job Ads Discriminated Against Men

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Hagood Tighe was quoted on *SHRM Online* on February 2, 2015. The article "EEOC: Restaurant's Seasonal Job Ads Discriminated Against Men" examined a recent lawsuit filed by the Equal Employment Opportunity Commission against Ruby Tuesday alleging the restaurant chain discriminated against male employees with its temporary assignments in a Utah resort town.

Hagood said, this lawsuit is different from one the EEOC filed and settled with the Hooters restaurant chain in 1997.

"Under Title VII, the law prohibits discrimination based on gender unless there is a BFOQ. It is a very narrow exception," Hagood told *SHRM Online*.

Instead, the restaurant based its selection of women servers only out of housing concerns, Hagood said.

The restaurant might argue that the expensive housing in a resort town meant the additional cost of housing men separately threatened the business' survival, Hagood said. But it's questionable whether that argument would work for the Park City restaurant, when Ruby Tuesday as a whole reported gross 2013 revenue of $1.25 billion.

"It's an odd case," Hagood observed, saying employers "really should avoid hiring decisions related to gender" as there are so few times when the BFOQ defense applies.

"It's very unusual to have an ad with a gender preference," he added, calling it a "red flag" that is "likely to attract a lawsuit."

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