

**CITY OF LINCOLN, NEBRASKA  
COMMISSION ON HUMAN RIGHTS  
MINUTES**

**Thursday, August 30, 2012  
City Council Chambers  
555 S. 10<sup>th</sup> Street**

**CALL TO ORDER:**

The August 30, 2012 meeting of the Commission on Human Rights was called to order at 4:00 p.m. by Vice Chairperson, Hazell Rodriguez.

**ROLL CALL:**

The roll call was called and documented as follows.

**MEMBERS PRESENT:**

Commissioners: Mary Reece, Bennie Shobe, Wendy Francis, Sue Oldfield, Micheal Thompson, and Hazell Rodriguez.

**MEMBERS ABSENT:**

Commissioners: Gene Crump, Takako Olson, and Elizabeth King.

**STAFF PRESENT:**

Kimberley Taylor-Riley, Angela Lemke, Margie Nichols, Loren Mestre-Roberts, and Cindy Wallman (Mayor's Office).

**APPROVAL OF AUGUST 30, 2012 AGENDA:**

Rodriguez noted the removal of LCHR #12-0725-017-H from the agenda. A motion was made by Commissioner Francis and was seconded by Commissioner Reece to approve the August 30, 2012, meeting agenda as amended.

Voting "aye" were Commissioners Shobe, Reece, Francis, Oldfield, Thompson, and Rodriguez. Motion carried.

**SWEARING-IN:**

Micheal Thompson was sworn-in by Joan Ross, City Clerk, as a new Human Rights Commissioner.

**APPROVAL OF JULY 26, 2012 MINUTES:**

A motion was made by Commissioner Francis and seconded by Commissioner Reece to approve the minutes of the July 26, 2012 meeting.

Hearing no discussion, Chairperson Rodriguez asked for the roll call. Voting “aye” were: Commissioners Reece, Shobe, Francis, Oldfield, Thompson, and Rodriguez. Motion carried.

**CASE DISPOSITIONS:**

**LCHR No.: 12-0113-002-E-R**

Commissioner Francis excused herself from the Chambers due to a conflict of interest in this case.

A motion for a finding of **No Reasonable Cause** on all allegations was made by Commissioner Oldfield and seconded by Commissioner Shobe.

Discussion ensued. Rodriguez asked for clarification on the number of hours the Complainant was expected to work and if there was a business necessity for the requisite number of hours. Lemke indicated that the Respondent’s position is that a manager is expected to be present at the business for at least thirty hours a week in order to accomplish the management duties. Rodriguez also stated that it appears that the Complainant was not averaging thirty hours a week from April to August, and then they decreased after that time. She asked whether his salary remained the same, which Lemke confirmed that he was paid hourly based on the number of hours worked and the \$2 decrease never took effect. Lemke also explained that there was a dispute in whether the Complainant limited his own availability or if Respondent limited the availability when she made out the schedule, and there was also a dispute in the number of hours the Complainant was told he needed to work.

Rodriguez questioned if there was a relationship between his medical condition and the need to work fewer hours. Lemke responded that there was no evidence that the Complainant’s medical condition was the reason for the number of hours he was available to work or able to work. Shobe questioned the “proposed amendments to the ADA” and asked if the regulations were implemented. Lemke responded that they were. Shobe asked for clarification on the November 25<sup>th</sup> meeting, and Lemke reiterated both parties’ position as to what occurred during that meeting. Reece asked about evidence to show the alleged performance issues. Lemke explained that some of the performance concerns were not disputed by the Complainant including not doing the shopping and not correctly reporting the breakables, and there was also oral evidence from the other store manager.

Rodriguez asked about the allegation that Respondent was telling another business owner about the Complainant's situation. Lemke explained that the evidence showed that prior to this complaint being filed another business owner talked to the Respondent about hiring the Complainant, and the Respondent indicated that she would not be comfortable due to the close proximity of the businesses, and the high emotion involved in the situation. Lemke explained that the Complainant was hired by this person anyway, and after the Complainant filed this complaint, the evidence showed that the Respondent informed this business owner that the Complainant decided to take legal action against her. Lemke explained that no negative repercussions occurred based on the Respondent's statements.

Commissioner Francis returned to the Chambers.

Hearing no further discussion, Chairperson Rodriguez asked for the roll call. Voting "aye" were Commissioners: Reece, Shobe, Oldfield and Rodriguez. Abstaining were Commissioners: Francis and Thompson. Motion carried.

**LCHR No.: 12-0423-017-E-R**

A motion for a finding of **No Reasonable Cause** on all allegations was made by Commissioner Francis and seconded by Commissioner Reece.

Discussion ensued. Reece asked how the Respondent's complaint process was relayed to the Complainant. Nichols stated that the Complainant's employer was actually the temporary placement agency, and that the Complainant was unaware of the policy, because did not review the handbook that was provided, and not because he was not provided the information. Francis asked about other temporary employees that had their assignment ended. Nichols explained that out of the four placed on this assignment at the same time as the Complainant, two had their assignments terminated. Nichols also stated that the evidence showed that two African-Americans were on assignment prior to the Complainant, and remained on assignment after the Complainant. Rodriguez commented about the Complainant's skill set, and Shobe and Francis also commented on the Complainant's low test scores. Nichols confirmed that the Complainant remained eligible for placement by the temporary agency.

Hearing no further discussion, Chairperson Rodriguez asked for the roll call. Voting "aye" were Commissioners: Reece, Shobe, Francis, Oldfield, and Rodriguez. Abstaining was Commissioner Thompson. Motion carried.

**LCHR No.: 12-0423-018-E-R**

A motion for a finding of **No Reasonable Cause** on all allegations was made by Commissioner Francis and seconded by Commissioner Reece.

Hearing no discussion, Chairperson Rodriguez asked for the roll call. Voting “aye” were Commissioners: Reece, Shobe, Francis, Oldfield and Rodriguez. Abstaining was Commissioner Thompson. Motion carried.

#### **PRE-DETERMINATION SETTLEMENT AGREEMENTS:**

**LCHR No.: 12-0418-016-E-R**

**LCHR No.: 12-0530-010-H**

**LCHR No.: 12-0705-013-H**

**LCHR No.: 12-0705-014-H**

A motion was made by Commissioner Francis and then seconded by Commissioner Shobe to accept the pre-determination settlement agreements.

Hearing no discussion, Chairperson Rodriguez asked for the roll call. Voting “aye” were Commissioners: Reece, Shobe, Francis, Oldfield, Thompson, and Rodriguez. Motion carried.

#### **ADMINISTRATIVE CLOSURES**

***Withdrawal with Benefits:***

**LCHR No.: 11-0822-031-E-R**

A motion was made by Commissioner Francis and seconded by Commissioner Reece to accept the Administrative Closure.

Hearing no discussion, Chairperson Rodriguez asked for the roll call. Voting “aye” were Commissioners: Reece, Shobe, Francis, Oldfield, Thompson, and Rodriguez. Motion carried.

***Failure to Cooperate:***

**LCHR No.: 12-0424-019-E-R**

**LCHR No.: 12-0424-020-E-R**

A motion was made by Commissioner Francis and seconded by Commissioner Oldfield to accept the Administrative Closures.

Hearing no discussion, Chairperson Rodriguez asked for the roll call. Voting “aye” were Commissioners: Reece, Shobe, Francis, Oldfield, Thompson, and Rodriguez. Motion Carried.

#### **OLD BUSINESS:**

**2013 Civil Rights Conference**

Director Taylor-Riley informed the Commissioners that the 2013 Civil Rights Conference will be held on April 23rd and 24<sup>th</sup> at Embassy Suites in Lincoln. She encouraged the Commissioners to let staff know of any speakers or topics of interest.

**NEW BUSINESS:**

EEOC Contract Update

Investigator Lemke updated the Commissioners on the Fiscal Year 2011/2012 EEOC Contract. Lemke reported that the end of the contract year is on September 30<sup>th</sup> and this year was the first year the LCHR requested a downward modification from 53 resolutions to 44 resolutions. Lemke talked about the decline in employment cases over the last few years which affected the number of cases for the contract. A short discussion took place regarding contract terms and referral sources.

Commissioner Reece suggested reaching out to public media in an attempt to educate the public about discrimination and LCHR.

Department of Justice Meeting

Director Taylor-Riley notified the Commissioners of a meeting she and Chairperson Crump had with officials from the Department of Justice and their community relations service. Taylor-Riley explained the role of this division as providing conflict resolution to communities that are experiencing certain issues within the community.

World Day on the Mall

Director Taylor-Riley encouraged Commissioners' attendance at World Day on the Mall being held September 20, 2012, at Pershing Center.

**PUBLIC COMMENTS:** None.

**ADJOURNMENT:** The meeting adjourned at 4:50 p.m.