

CITY OF LINCOLN, NEBRASKA
COMMISSION ON HUMAN RIGHTS MINUTES
September 26, 2013
CITY COUNCIL CHAMBERS, 555 S. 10TH STREET

The September 26, 2013, meeting of the Commission on Human Rights was called to order at 4:00 p.m. by Gene Crump, Chair.

ROLL CALL:

The roll call was called and documented as follows:

MEMBERS PRESENT:

Commissioners: Gene Crump (Chair), Sue Oldfield, Takako Olson, Hazell Rodriguez, Bennie Shobe, and Micheal Thompson. Quorum present.

MEMBERS ABSENT:

Liz King and Mary Reece.

STAFF PRESENT:

Kimberley Taylor-Riley, Angela Lemke, Margie Nichols, Loren Roberts, Peg Dillon, and Assistant City Attorney Jocelyn Golden.

APPROVAL OF AUGUST 29, 2013 MINUTES:

A motion was made by Rodriguez and seconded by Thompson to approve the minutes of the August 29, 2013 meeting.

Crump asked for the roll call. Voting "aye" was: Rodriguez, Olson, Shobe, and Thompson. Abstaining was Oldfield and Crump. Motion carried.

APPROVAL OF SEPTEMBER 26, 2013, AGENDA:

A motion was made by Oldfield and seconded by Shobe to amend the meeting agenda and remove LCHR #13-0418-012-E-R from the agenda.

Crump asked for the roll call. Voting "aye" was: Crump, Oldfield, Rodriguez, Olson, Shobe, and Thompson. Motion carried.

A motion was made by Rodriguez and seconded by Olson to approve the revised meeting agenda. Crump asked for the roll call. Voting "aye" was: Crump, Oldfield, Rodriguez, Olson, Shobe, and Thompson. Motion carried.

CASE DISPOSITIONS:

LCHR #13-0207-002-E-R

Oldfield excused herself due to conflict of interest and left the Chambers.

A motion was made by Rodriguez and seconded by Shobe to recommend a finding of **No Reasonable Cause** on all issues.

Rodriguez asked if Nichols got an understanding of the training for employees in handling these situations. Nichols replied yes, and that at no time are the employees supposed to push or shove the client. The training was very detailed and is based on redirection. Each client also had a specific plan created. Thompson asked if there is any gray area in the training and if employees are ever allowed to use additional force. Nichols replied yes, if there is danger of injury to the client or others.

Thompson asked if employees needing to go to doctor's appointments are supposed to inform someone. Nichols replied that they are not only supposed to inform their supervisor, but they are to find a replacement.

Rodriguez asked if there was more formal action was taken after the first coaching. Nichols replied that yes, two days after the first coaching.

Hearing no further discussion, Oldfield returned to the Chambers, and Crump asked for the roll call. Voting "aye" was: Crump, Rodriguez, Shobe, Thompson, and Olson. Abstaining was Oldfield. Motion for a finding of **No Reasonable Cause** carried.

LCHR #13-0207-003-E-R

Oldfield excused herself due to a conflict of interest and left the Chambers.

A motion was made by Rodriguez and seconded by Thompson to recommend a finding of **No Reasonable Cause** on both issues.

Hearing no discussion, Oldfield returned to the Chambers, and Crump asked for the roll call. Voting "aye" was: Crump, Rodriguez, Shobe, Thompson, and Olson. Abstaining was Oldfield. Motion for a finding of **No Reasonable Cause** carried.

LCHR #13-0211-004-E-R

Oldfield excused herself due to a conflict of interest and left the Chambers.

A motion was made by Thompson and seconded by Olson to recommend a finding of **No Reasonable Cause** on all issues.

Shobe commented that he was bothered about not having a discussion on all three cases. Nichols replied that this case was somewhat different because this Complainant said she was not present when one of the clients eloped. Nichols added, however, she was asked to look for the person who had eloped and refused to help, stating she had her own client to attend to.

Hearing no further discussion, Oldfield was called back to Chambers, and Crump asked for the roll call. Voting "aye" was: Crump, Rodriguez, Shobe, Thompson, and Olson. Abstaining was Oldfield. Motion for a finding of **No Reasonable Cause** carried.

LCHR #13-0304-006-E

A motion was made by Rodriguez and seconded by Thompson to recommend a finding of **No Reasonable Cause** on two issues: denial of promotion and reduced wages due to sex.

Olson questioned the appropriateness of the employee review, and said she could understand why the Complainant would think the reduction in pay was based on her pregnancy. Lemke said there was a verbal reason given by the Respondent that the reduced wages were a result of the Complainant not working the overnight shift and the time frame matched up with this reason. Rodriguez asked if the Complainant ever applied for a promotion. Lemke replied that no there is no evidence that she applied for the job or that the Respondent was seeking applicants.

Hearing no further discussion, Crump asked for the roll call. Voting "aye" was: Oldfield, Rodriguez, Shobe, Thompson, and Crump. Voting "no" was Olson. Motion for a finding of **No Reasonable Cause** carried.

A motion was made by Olson and seconded by Rodriguez to recommend a finding of **Reasonable Cause** on the issue that the Complainant was terminated based on sex.

Rodriguez asked about reasons that were given for her termination and the posted written memos. Lemke replied that the Respondent said they used sticky notes to communicate procedures but there was no evidence of that. Rodriguez also asked about the other employee that was interviewed and questioned the Respondent's position on the different treatment. Lemke recapped the witness statements, and the Respondent's position that the employee had been verbally counseled about the tardiness and sleeping on the job. Lemke said the Respondent also failed to provide documentation supporting most of the reasons given for the Complainant's termination.

Hearing no further discussion, Crump asked for the roll call. Voting "aye" was: Oldfield, Rodriguez, Shobe, Thompson, Olson, and Crump. Motion for a finding of **Reasonable Cause** carried.

LCHR #13-0430-014-E-R

A motion was made by Thompson and seconded by Oldfield to recommend a finding of **No Reasonable Cause**.

Rodriguez asked about the witnesses verifying that there was name calling of a racial nature and if Nichols had addressed this with the Respondent. Nichols said that the Respondent denied it occurred and a witness stated all type of name calling occurred because of the type of environment they worked in. Rodriguez asked if the Complainant complained about it. Nichols replied the Complainant claimed he had complained, but there was no evidence of that. Rodriguez asked if the employees were provided with an anti-harassment and nondiscrimination policy. Nichols said yes, they did have a policy that new employees read and sign.

Crump asked if Nichols believed the Complainant's witness was telling the truth. Nichols said he no longer worked there and had no reason not to tell the truth. Rodriguez commented that it was more an issue of personalities than anything of real consequence. Nichols said she believed that the Respondent should have known about the issues of name calling because it seemed prominent in the workplace. Rodriguez commented that the Complainant should have kept his composure. Shobe asked about the situation of the Complainant leaving and whether he quit or not. Nichols said that, originally, the Respondent had wanted the Complainant to return to work after the meeting, but after the Complainant left the job site, the supervisor decided to terminate the Complainant's employment because of his insubordination.

Hearing no further discussion, Crump asked for the roll call. Voting "aye" was: Oldfield, Rodriguez, Shobe, Thompson, Crump and Olson. Motion for a finding of **No Reasonable Cause** carried.

LCHR #13-0612-003-H

A motion was made by Oldfield and seconded by Shobe to recommend a finding of **No Reasonable Cause** on all issues.

Thompson asked about the Respondent not owning a copier and his stating that most tenants don't want a copy of their lease agreement. Lemke confirmed that this was Respondent's statement and said she found it hard to believe that tenants would not want a copy of their lease. Rodriguez commented on how the Respondent refused to answer the Complainant's calls and refused to talk to him, and wondered how to apply this fact to the allegation that he failed to make timely repairs. Rodriguez also asked why the Complainant stopped paying rent. Lemke discussed witness testimony as to repairs done by the Respondent and a short discussion ensued about another tenant of Ethiopian descent needing repairs that were not completed. Lemke also said that the Complainant did not want to pay Respondent any more money based on the poor treatment he had received. The Commissioners asked about the next step after a determination of reasonable cause. Lemke replied that the City Attorney's office would review it, HUD could review it, or it would be issued to a Public Hearing.

Rodriguez commented that there were issues with both the Respondent and the Complainant, and questioned if other tenants faced similar problems with this Respondent. Lemke offered her opinion

that the Respondent has issues with control and discussed how others have issues with cable and some tenants who had received notices about opening windows and alleged smoking. Thompson commented that the discrimination seemed to be against anyone and everyone. Shobe commented that it is the responsibility of a landlord to be sure that the tenant's environment is safe and the responsibility of the tenant to pay rent. Lemke said that she questioned the quickness of the Respondent issuing a notice in such a short period of time, and discussed that there was no proof that a second notice was issued.

Hearing no further discussion, Crump asked for the roll call. Voting "aye" was: Olson. Voting 'no' was Oldfield, Rodriguez, Shobe, Thompson, and Crump. Motion for a finding of **No Reasonable Cause** failed.

A motion was made by Shobe and seconded by Thompson to recommend a finding of **Reasonable Cause** on the issues of race and national origin.

Olson asked if the Commissioners can get someone to look at this case. Taylor-Riley said that the next step after a finding of reasonable cause will be for the case to be reviewed by the City Attorney but it will not go back to LCHR for review unless there is something specific the Commission wants the investigator to review.

Hearing no further discussion, Crump asked for the roll call. Voting "aye" was Olson, Oldfield, Rodriguez, Shobe, Thompson, and Crump. Motion for a finding of **Reasonable Cause** carried.

A motion was made by Rodriguez and seconded by Thompson to recommend a finding of **No Reasonable Cause** on the issue of disability.

Hearing no discussion, Crump asked for the roll call. Voting "aye" was Olson, Oldfield, Rodriguez, Shobe, Thompson, and Crump. Motion for a finding of **No Reasonable Cause** on the issue of disability carried.

PRE-DETERMINATION SETTLEMENT AGREEMENTS:

LCHR #13-0604-018-E-R

A motion was made by Oldfield and seconded by Crump to accept the settlement agreement as presented. Hearing no discussion, Crump asked for the roll call. Voting "aye" was: Oldfield, Rodriguez, Shobe, Thompson, Crump and Olson. Motion carried.

LCHR #13-0710-023-E-R

A motion was made by Oldfield and seconded by Crump to accept the settlement agreement as presented. Hearing no discussion, Crump asked for the roll call. Voting "aye" was: Oldfield, Rodriguez, Shobe, Thompson, Crump and Olson. Motion carried.

LCHR #13-0711-005-H

A motion was made by Shobe and seconded by Crump to accept the settlement agreement as presented. Hearing no discussion, Crump asked for the roll call. Voting "aye" was: Oldfield, Shobe, Thompson, Crump and Olson. Abstaining was: Rodriguez. Motion carried.

LCHR #13-0829-008-H

A motion was made by Oldfield and seconded by Crump to accept the settlement agreement as presented. Hearing no discussion, Crump asked for the roll call. Voting "aye" was: Oldfield, Rodriguez, Shobe, Thompson, Crump and Olson. Motion carried.

ADMINISTRATIVE CLOSURES:

LCHR #13-0510-016-E-R

A motion was made by Oldfield and seconded by Thompson to accept the administrative closure for failure to cooperate. Hearing no discussion, Crump asked for the roll call. Voting "aye" was: Oldfield, Rodriguez, Shobe, Thompson, Crump and Olson. Motion carried.

NEW BUSINESS:

Roberts invited the Commissioners to the Civil Rights Conference scheduled for April 1, 2014, and to help with donations, ideas for topics and speakers. She also invited them to attend Streets Alive, community presentations on new Healthcare Plans, and an event on Health Equity.

Nichols let everyone know that she presented the name plate to former Commissioner Wendy Francis. Francis asked Nichols to thank everyone for the gift.

Taylor-Riley discussed her recent trip to the EEOC conference in Denver. Plans from each city agency are going to be submitted and also to incorporate them into our Civil Rights Conference. She will be attending August 2014 at the combined conference in San Diego.

Crump discussed the 50th Anniversary March in Washington DC and his attendance. He highlighted the events and commentary buttons from the event and postcards sent to various persons and memorabilia.

Next Meeting:

The next meeting will be Thursday, October 31, 2013, at 4:00 p.m. in the City Council Chambers at the County City Building at 555 S. 10th Street.

The meeting was adjourned at 5:05 p.m.