

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

APRIL 11, 2013  
**CITY COUNCIL CHAMBERS**  
**555 S. 10<sup>TH</sup> STREET**

The April 11, 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: Liz King, Sue Oldfield, Mary Reece, Hazell Rodriguez, Bennie Shobe, and Gene Crump. Quorum present.

**MEMBERS ABSENT:**

Micheal Thompson, Wendy Francis, and Takako Olson were absent.

**STAFF PRESENT:**

Staff attending: Kimberley Taylor-Riley, Angela Lemke, Margie Nichols, Loren Roberts, and Peg Dillon.

**APPROVAL OF MARCH 28, 2013 MINUTES:**

A motion was made by Reece and seconded by Shobe to approve the minutes of the March 28, 2013, meeting as presented.

Hearing no discussion, Crump asked for the roll call. Voting "aye" was: King, Reece, Rodriguez, Shobe, and Crump. Abstaining was: Oldfield. Motion carried.

**APPROVAL OF APRIL 11, 2013, AGENDA:**

A motion was made by King and seconded by Reece to approve the amended April 11, 2013, meeting agenda with the removal of case LCHR No.: 12-1115-055-E-R from the agenda. Crump asked for the roll call. Voting "aye" was: King, Oldfield, Reece, Rodriguez, Shobe, and Crump. Motion carried.

**CASE DISPOSITIONS:**

**LCHR #12-0706-029-E-R**

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

Rodriguez questioned the Complainant's claim that the second injury was caused by being asked to do too much. Rodriguez asked if it was common for the Respondent to require an employee to work two different machines. Lemke replied that the Complainant was trained to work on the 'former' but was asked to also work on the 'mill'. The Complainant told Lemke that she was not comfortable operating the mill. Rodriguez asked what training the employee undergoes before they can safely operate the mill. Lemke did not find any particular documentation about the training but believed that the Complainant was trained.

King asked about the Respondent's plan to transfer the Complainant. Lemke replied that the Respondent had initially planned to transfer the Complainant until she had the second accident. Lemke said that Respondent then terminated the Complainant because she did not demonstrate safe work habits. Lemke also commented that the Complainant was not comfortable operating the mill but was trained to operate the machines. Rodriguez asked what the Complainant did wrong to cause the second injury. Lemke responded that the Complainant's fast paced behavior and not being aware of her surroundings was of concern to the Respondent. King asked about the Complainant's anxiety disorder. Lemke thought the Complainant's anxiety disorder could have contributed to her fast paced behavior but the Complainant never asked to be transferred because of any disability. Lemke added that this was critical to her case.

Rodriguez asked about the medication issue and Lemke replied that the Respondent did not ask about the medication or the reason the Complainant was taking medication. Reece commented that the employer was remiss in not discussing a medication issue for an employee operating the type of equipment used in this company. Lemke replied that the Respondent was not concerned about the medication. Rodriguez asked if the Respondent did an investigation into the Complainant's hand injury. Lemke replied that the supervisor filled out an accident investigation report. The Commissioners discussed the tools found at the machine, how the accident occurred, and whether or not it was the Complainant's negligence. According to Lemke, the Complainant did not report the accident and she was found in the locker room with a towel wrapped around her hand. Lemke added that the Complainant did not remember how the injury occurred.

Hearing no further discussion, Crump asked for the roll call. Voting "aye" was: King, Oldfield, Reece, Rodriguez, Shobe, and Crump. Motion carried.

**LCHR #12-0911-044-E-R**

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

Shobe questioned the application process and asked if the Complainant did actually apply for a promotion. Lemke clarified that the Complainant said he completed the online application, received an email confirmation, and took the skills test. She said the Respondent had no record of the Complainant applying for the job. Rodriguez asked if it was possible the Complainant's name had been miss-spelled in the records. Lemke replied that a spreadsheet submitted by the Respondent showed no occurrence of the Complainant's name under either of two different spellings. Reece asked for verification that there was no work on the line for him to return to, which Lemke confirmed.

Rodriguez asked if there were any disciplinary actions on the Complainant's record. Lemke verified that there were none. Rodriguez stated that other than being terminated there was no evidence that there was discrimination due to national origin or religion. Lemke agreed with that statement.

Hearing no further discussion, Crump asked for the roll call. Voting "aye" was: King, Oldfield, Reece, Rodriguez, Shobe, and Crump. Motion carried.

**LCHR #12-0926-047-E-R**

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

Rodriguez asked about what actually happened at the company. Nichols replied that there were two dissimilar versions of the altercation. She stated that the Complainant was having trouble with the machine and paged a particular person to work on it. Nichols said the Complainant stated that a different employee responded and the other co-worker involved was angry about it. Nichols continued that even though the Complainant said the other co-worker was slamming items around on his machine witnesses said it was the Complainant who had been slamming things around and was angry. An altercation ensued between the workers, but two different versions were given regarding who started the fight. After the supervisor arrived, he stated that the Complainant was still very angry and remained hostile, so the supervisor sent the Complainant home. The Company investigated the incident and witnesses agreed with the co-worker's version of the story. Nichols stated that because the Company determined that the Complainant started the fight, his assignment with the Company was ended. She added that the Complainant was then terminated by the Respondent as a result of the incident and because he had also been released from a previous assignment.

Rodriguez asked about the procedure used by the Company to terminate the Complainant. Nichols stated companies with employees assigned by the Respondent are allowed to end assignments for any reason as long as it is not due to discrimination. Nichols confirmed that the Company and the Respondent both had minority employees and that there did not appear to be evidence of discrimination based on race.

Hearing no further discussion, Crump asked for the roll call. Voting "aye" was: King, Oldfield, Reece, Rodriguez, Shobe, and Crump. Motion carried.

**LCHR #12-1019-051-E-R**

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

Shobe questioned the process of the background check and why it was mailed instead of being faxed. Lemke replied that this was an extraordinary situation and not the normal procedure for the Department of Health and Human Services. Lemke confirmed that the Complainant and the employee that replaced the Complainant did not apply at the same time. Rodriguez asked why the previous applicant was not just hired instead of them hiring the Complainant. Lemke replied that the Respondent was in a hurry to hire someone to maintain child to teacher ratio and said that they had forgotten about the employment inquiry. Lemke stated that the typical time frame for background checks was several days. Crump asked Lemke about the normal procedure. Lemke replied that they usually would get a fax from Health and Human Services, rather than sending the results by US mail. Lemke said that even though the situation was unfortunate for the Complainant, there was no evidence of age discrimination.

Hearing no further discussion, Crump asked for the roll call. Voting "aye" was: King, Oldfield, Reece, Rodriguez, Shobe, and Crump. Motion carried.

**LCHR #12-1024-053-E-R**

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

King asked for clarification regarding the July incident as well as there being any ongoing issues after the July meeting. Nichols replied that the Complainant felt that she was the only one who had received a warning from the July incident because her co workers denied being told that they should work as a team afterward.

Rodriguez asked about the work performed by the Complainant's team and if it required team work or that they work on their own. Nichols confirmed that it involved teamwork, but the Respondent's position was that many of the problems the Complainant experienced were outside of the work she performed. Nichols stated that the Complainant believed she was being left out and being

disrespected by the other team members. The Respondent's position was that the Complainant took issue with what everyone else did or didn't do, instead of focusing on her own work. Rodriguez asked why the one employee who used a slashing motion over her throat did not receive a more extreme disciplinary action than the rest of the team members. Nichols replied that the Respondent held all of the team members, including the Complainant, responsible for their actions. She added this included the Respondent being tired of the Complainant's constant nitpicking and questioning what other team members were doing. Nichols said the Respondent believed that all of the team members acted inappropriately and, therefore, they were all given the final disciplinary warning. Nichols also said that the question is if the behavior of the team members was because of the Complainant's race. She added that the Complainant's only allegation that the Complainant related to her race involved comments made by her Supervisor. The supervisor denied saying what the Complainant had alleged he did, and stated that his comment had to do with the team members not being able to relate to being the only person of a different race in the work environment.

King commented about the standard of severe or pervasive harassment in a work environment. Nichols replied that the court standard for severe or pervasive is that the daily environment had to be permeated with racial harassment. King said that the Complainant could have felt that the behavior of the team might have been severe to her.

Hearing no further discussion, Crump asked for the roll call. Voting "aye" was: King, Oldfield, Reece, Rodriguez, Shobe, and Crump. Motion carried.

#### **LCHR #12-1115-056-E-R**

A motion for a finding of **No Reasonable Cause** was made by Oldfield and seconded by Crump.

Shobe asked about the time line that involved a history of good work and yet once the report on his criminal record came back he was terminated. Nichols confirmed that that was the correct time line of events.

Rodriguez stated that she had an issue with the definition of intentional falsification on his application. She thought the Complainant had reason to believe he did not need to report the incident which had occurred over seven years ago. Rodriguez asked why they could not place him at another location and Nichols replied that there were no other openings to move the Complainant to. Nichols also confirmed that no other employees had failed to disclose felony convictions.

Hearing no further discussion, Crump asked for the roll call. Voting "aye" was: King, Oldfield, Reece, Rodriguez, Shobe, and Crump. Motion carried.

**ADMINISTRATIVE CLOSURES:**

**LCHR #12-0813-033-E-R**

A motion was made by Reece and seconded by King to accept the administrative closure based on their request for Notice of Right to Sue.

Hearing no discussion Crump asked for the roll call. Voting "aye" was: King, Oldfield, Reece, Rodriguez, Shobe, and Crump. Motion carried.

**OLD BUSINESS:**

**Civil Rights Conference April 23-24, 2013 – Award Nominations and Voting**

Taylor-Riley said there were currently 161 registrations for the Civil Rights Conference, that all things are in order, and all speakers had been confirmed. She also stated that the Mayor has a conflict on that date so someone else will give the welcoming address.

**LB 485 Update**

Taylor-Riley stated LB 485 did not get out of committee so she is waiting to see if it will be picked up by a senator and/or be included in another bill. She added that for now, it did not look like it would be going forward.

**NEW BUSINESS:**

No new business.

**Next Meeting:**

The next meeting will be Thursday, May 30, 2013, at 4:00 p.m. in the City Council Chambers at the County City Building at 555 S. 10<sup>th</sup> Street.

**ADJOURNED:** The meeting was adjourned at 4:55 p.m.