

CITY OF LINCOLN, NEBRASKA
COMMISSION ON HUMAN RIGHTS MINUTES
June 26, 2014
CITY COUNCIL CHAMBERS, 555 S. 10TH STREET

The June 26, 2014, meeting of the Commission on Human Rights was called to order at 4:02 p.m. by Bennie Shobe, Chair.

ROLL CALL:

The roll call was called and documented as follows:

MEMBERS PRESENT:

Commissioners: Bennie Shobe (Chair), Mary Reece (Vice-Chair), Amanda Baron, Liz King, Sue Oldfield, and Melanie Ways. Quorum present. Micheal Q. Thompson joined the meeting at 4:45 pm.

MEMBERS ABSENT:

Takako Olson and Jon Rehm.

STAFF PRESENT:

Angela Lemke, Margie Nichols, Loren Roberts, Jocelyn Golden and Peg Dillon.

APPROVAL OF MAY 29, 2014 MINUTES:

A motion was made by Oldfield and seconded by Shobe to approve the minutes of the May 29, 2014 meeting as submitted. There was a question about the dates and locations for June events. Roberts clarified that the Refugee event was moved to the Malone Center but will probably be rescheduled. Streets Alive will be in September. Hearing no further discussion, Shobe asked for the roll call. Voting "aye" was: Shobe, Reece, Baron, King, Oldfield, and Ways. Motion carried.

APPROVAL OF JUNE 26, 2014 AGENDA:

A motion was made by Reece and seconded by Ways to approve the meeting agenda. Shobe asked for the roll call. Voting "aye" was: Shobe, Reece, Baron, King, Oldfield, and Ways. Motion carried.

CASE DISPOSITIONS:

LCHR #13-1206-037-E-R

A motion was made by Oldfield and seconded by King to recommend a finding of **No Reasonable Cause** on the issue of a hostile work environment based on National Origin.

Reece asked for clarification on what would constitute a hostile work environment. Lemke replied that the Complainant has the burden of proof to show that the harassment occurred, and added that the Complainant showed some conflicting behavior that called into question some of the testimony about the work environment. Discussion continued about other harassing incidents, some that were reported and some that were not.

Reece questioned if the Employer took the Complainant's complaints seriously enough. Lemke said that the majority of the complaints had to do with the amount of work required from the Complainant compared to other co-workers. Shobe commented that the Complainant tried to make the environment better with his attempts to befriend co-workers and he felt that the Respondent did address the complaints. Lemke said she felt that the Respondent didn't take the complaint about unequal work seriously enough until after the Complainant was terminated.

Ways questioned the attendance records and Lemke said the co-worker and the Complainant had a similar number of absences.

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

A motion was made by King and seconded by Reece to recommend a finding of **Reasonable Cause** on the issues of termination based on National Origin and retaliation for engaging in a protected activity.

Lemke said the termination based on National Origin was difficult but there was a comparable individual who was not terminated. There was general discussion on the reasons Respondent gave for the Complainant's termination.

Shobe questioned the retaliation claim. Lemke replied that Respondent used "false allegations" as a reason for termination, and a supervisor indicated in his written notes that the Complainant claimed everybody was racist. Lemke adds that although some of the Complainant's behavior was suspicious, there was no clear evidence that his allegations were false. Reece asked if there were formal policies written by the Company pertaining to complaints filed by an employee. Lemke said that there were none, but the Respondent has since developed policies.

Hearing no further discussion, Shobe asked for the roll call. Voting "aye" was: Shobe, Reece, Baron, King, Oldfield, and Ways. Motion carried for Reasonable Cause on the last two issues.

LCHR #14-0331-005-E-R

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

Reece asked why the Respondent's Manager decided to terminate the Complainant on a Saturday but waited until the following Monday to tell her. Nichols said they wanted the Complainant to work until the end of the pay period, which ended Saturday evening. She said the Manager told her she had left the office prior to the Complainant.

Shobe asked if the Complainant's request for accommodation should have been considered since it was requested before she was officially terminated. Nichols said evidence showed the Manager made the decision to terminate the Complainant's employment before the Complainant made the request. Shobe asked for clarification about the actual accommodation request. Nichols replied that the Complainant told the Manager she could not lift or bend due to back issues, which signaled that it was a reasonable accommodation request.

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

LCHR #14-0331-006-E-R

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

King asked if the Respondent knew about the Complainant's claim for Social Security Supplemental Income. Nichols said that the Complainant did not tell the Respondent she was disabled and did not receive any forms from Social Security regarding the Complainant. King asked if getting the form might be a red flag for the Employer and Nichols explained that the form would not indicate what type of income the Complainant received

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

PRE-DETERMINATION SETTLEMENT AGREEMENTS:

LCHR #14-0424-005-H

A motion was made by Reece and seconded by Baron to approve the pre-determination settlement agreement.

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

LCHR #14-0508-008-H

A motion was made by Oldfield and seconded by Thompson to approve the pre-determination settlement agreement.

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

LCHR #14-0508-009-H

A motion was made by Reece and seconded by Ways to approve the pre-determination settlement agreement.

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

LCHR #14-0522-011-H

A motion was made by Oldfield and seconded by Thompson to approve the pre-determination settlement agreement.

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

ADMINISTRATIVE CLOSURES:

LCHR #14-0225-004-E

A motion was made by Oldfield and seconded by Reece to approve the administrative closure due to the inability to locate the Respondent.

Shobe questioned why this case was being submitted again. Lemke explained that the Complainant presented additional information as to the alleged whereabouts of the employer so further attempts were made to identify and locate the employer. These attempts were unsuccessful.

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

OLD BUSINESS:

Update on Case: LCHR #13-0612-003-H

The Final Order in the public hearing case Simeus v. RGR Company was appealed to the District Court. Oral arguments and briefs will be presented to the judge by both sides on July 2nd, at 9:30 a.m.

NEW BUSINESS:

NAACP Regional Meeting and Training

Shobe and Taylor-Riley attended the NAACP quarterly meeting which was held on June 7th, 2014, in Omaha NE. Taylor-Riley gave a presentation on the effects of criminal records in employment. Shobe added that the Omaha NAACP office was impressed with LCHR and the work being done.

Outreach Activities

Roberts thanked Commissioner Thompson and Margie Nichols for assistance with the video that will be created by 5 City TV in Spanish and English. She also thanked Commissioner Shobe and Angela Lemke for participation in the KZUM radio interview promoting LCHR. Roberts commented that she is reaching more people through LHA due to an increase in vouchers, and adds that employment workshops are continuing at Center for People in Need.

Public Comment

A highway civil rights specialist with the Department of Roads, Christopher Hassler, introduced himself to the Commission. Shobe asked for clarification of his job description. He was interested to observe our meeting and meet some of the Staff and Commissioners.

The meeting was adjourned at 4:49 p.m.

Next Meeting:

The next meeting will be Thursday, July 31, 2014, at 4:00 p.m. in City Council Chambers at 555 S. 10th Street.