

CITY OF LINCOLN, NEBRASKA
COMMISSION ON HUMAN RIGHTS MINUTES
February 26, 2015

555 S. 10TH STREET, City Council Chambers

The February 26, 2015, meeting of the Commission on Human Rights was called to order at 4:04 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), Liz Kennedy-King, Sue Oldfield, Takako Olson, Micheal Q. Thompson and Melanie Ways. Quorum present. Amanda Baron joined the meeting at 4:10 p.m.

MEMBERS ABSENT:

Jon Rehm

STAFF PRESENT:

Kimberley Taylor-Riley, Margie Nichols, Loren Roberts, Jocelyn Golden, and Peg Dillon.

APPROVAL OF JANUARY 29, 2015, MINUTES:

A motion was made by Thompson and seconded by Reece to approve the minutes of the January 29, 2015, meeting as submitted.

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

APPROVAL OF FEBRUARY 26, 2015, AGENDA:

A motion was made by Kennedy-King and seconded Olson to approve the agenda.

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

CASE DISPOSITIONS:

LCHR #14-0717-013-E-R

A motion was made by Olson and seconded by Kennedy-King to recommend a finding of **reasonable cause** for being subjected to different terms and conditions and being terminated on the basis of age.

Olson asked for confirmation that the Complainant has worked for the Respondent for 32 years and that the Manager has not hired anyone older than 40 for the last two years. Nichols responded yes to both statements. There was discussion about the hiring process, the applicant pool that was provided and the age of the applicants for this job. The age range of managers hired by the Respondent's Store Manager was also discussed.

Shobe asked about the Respondent's written verbal warnings and the lack of a progressive disciplinary policy. Nichols responded that while there was no written progressive disciplinary policy, the store manager described the process he utilizes, including giving a verbal warning, then if the problem occurs again, issuing a written disciplinary action to the employee, explaining what is required of that employee, and detailing what may happen if the problem occurs again.

There was discussion about the Complainant being held responsible for complaints involving employees, including once when the Complainant was on vacation when the error occurred. Reece questioned determining age discrimination when there was no direct evidence. Nichols replied that Commissioners had to decide if the reasons provided by the Respondent were pretext to hide discrimination.

Shobe asked about the policy manual and if Respondent's policy manual backs up the Manager's actions. Nichols replied that the Respondent does not have an employee handbook or policy manual. There was discussion about performance evaluations and how detailed they are.

Olson asked about the last complaint by a customer and the confusion about whether it was an email or a phone call. Nichols replied that the Respondent stated it came in as a phone call and denied telling the Complainant it was an email. Regardless, Nichols stated the Respondent provided information about the caller which could be confirmed.

Kennedy-King commented on the staff being under the age of 40 and if that leads to a reasonable cause finding. There was discussion about how the Complainant's work experience versus the work experience of the person hired to replace her could also be taken into consideration when making a determination.

Shobe asked about the reasonable cause process and what happens if the Commission were to make a Reasonable Cause finding. Nichols explained that then both parties are notified and conciliation is attempted. She stated if that fails or is declined, then there is the possibility of the case being moved to a public hearing or closed and a Notice of Right to Sue issued so the case can be pursued in District Court. Nichols added that if the motion fails or the Commission determines there is No Reasonable Cause, then the case is closed and the Complainant issued a Notice of Right to Sue which means they could still pursue it in court.

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

LCHR #14-0923-004-PA

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

Olson asked for the job description for the People Greeter and if anything was determined from watching the surveillance video. Nichols replied that the main job of the People Greeter is to welcome individuals as they come into the store and also thank them for shopping as they leave. The secondary part is that if a notification sounds goes off as customers are exiting, the people greeter can stop the shopper and ask to look at their receipt. It was asked if that happened in this case. Nichols said that from the video, it appeared the employee was watching the complainant before she left the store, and when she did leave, he then stopped her and asked to see her receipt. Nichols said the notification sound did not go off.

Olson asked about the apology from the Respondent to the Complainant. Nichols said they stated they apologized to the Complainant right after it first occurred and again when she came back to the store with her husband. Shobe asked about the inconvenience this caused to the Complainant as well as the definition of "full enjoyment". Nichols replied that the 8th Circuit Court of Appeals defines full enjoyment as meaning the legal contract created by the purchase and not in describing the actual experience.

Commissioners also discussed the apology made by the Respondent and the prompt corrective action it took when it gave the employee a Second Written Disciplinary action Nichols added that he employee no longer works for the Respondent.

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

LCHR #14-0924-005-PA

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

Kennedy-King asked about the sign at the Company, where it was displayed and if it was in any language other than English. Nichols said it was displayed inside the office and is only in English.

There was discussion about the Respondent's policy and liability issues. Kennedy-King asked about how other medical facilities handle liability and ID issues. There was further discussion about the differences between a clinic and an ER facility and the type of treatment needed by patients entering hospitals versus clinics.

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

ADMINISTRATIVE CLOSURE:

LCHR #14-1217-028-H

A motion was made by Reece and seconded by Oldfield to approve the administrative closure as a withdrawal.

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

OLD BUSINESS:

Civil Rights Conference

Roberts updated the Commission on the Civil Rights Conference scheduled for April 29, 2015. The brochures were handed out to Commissioners and they were asked to continue to promote the Conference throughout the community. Roberts highlighted the City water bill insert that promotes the Lincoln Commission on Human Rights services. The website was updated with the Conference information and brochure.

New investigator

Taylor-Riley presented an update on the hiring of a new investigator for the Commission. Interviews for the position will be completed soon. The goal is to have the investigator in place around the middle of March and in time to attend the Civil Rights Conference.

NEW BUSINESS:
Outreach Activities

Roberts talked about a workshop at the Salvation Army that teaches basics about driver licenses, child car seats, and understanding your civil rights. At Union College a Justice class will highlight LCHR's role in the community. A UNL special project will provide translation for a couple of documents into Spanish.

Roberts continues to work with Lincoln Public Schools, Lincoln Housing Authority, RentWise with CenterPointe, and the Community Action Program.

Taylor-Riley is the new co-chair for the Minority and Justice Committee that is a joint committee with the State Bar Association and The Nebraska Supreme Court. She spoke at diversity day at UNL to High School students about the potential for a law career. Olson commented that this is one of the best conferences the students attend.

Attendance Awards

Awards were presented to Commissioners Bennie Shobe, Jr., Sue Oldfield and Micheal Q. Thompson for perfect attendance to all of the 2014 Commission Meetings.

PUBLIC COMMENT:

There was no public comment.

The meeting was adjourned at 5:12 p.m.

Next Meeting:

Thursday, March 26, 2015, at 4:00 p.m.
City Council Chambers, at 555 S. 10th Street, 1st floor.