

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

Thursday, June 25, 2015
City Council Chambers

CALL TO ORDER:

The June 25, 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), Amanda Baron, Susan Oldfield, Jon Rehm, and Michael Q. Thompson. Quorum was present.

MEMBERS ABSENT:

Commissioners: Liz Kennedy-King, Takako Olson, and Melanie Ways.

STAFF PRESENT:

LCHR: Kimberley Taylor-Riley, Margie Nichols, Abigail Littrell, Loren Roberts, LCHR intern – Koi Bradley, and Peg Dillon.

APPROVAL OF MAY 28, 2015, MINUTES:

A motion was made by Thompson and seconded by Reece to approve the minutes of the previous meeting.

Chairperson Shobe asked for the roll call. Voting “aye” was: Shobe, Reece, Baron, Oldfield, Rehm, and Thompson. Motion carried.

APPROVAL OF JUNE 25, 2015, AGENDA:

A motion was made by Reece and seconded Baron to approve the meeting agenda.

Chairperson Shobe asked for the roll call. Voting “aye” was: Shobe, Reece, Baron, Oldfield, Rehm, and Thompson. Motion carried.

CASE DISPOSITIONS:

LCHR #15-0225-006-E-R

A motion was made by Rehm and seconded by Oldfield to recommend a finding of **reasonable cause** on all issues.

Rehm commented that when the Complainant took her complaint of sexual harassment to the Manager, the Manager did not take steps to stop the alleged harassment because she believed that the Complainant did not want her take any action. Nichols stated that it was possible that the Complainant resigned because of the ongoing harassment at the Complainant's workplace rather than because of the extensive travel reasons she noted in her written resignation.

Shobe and Thompson asked why the Respondent did not do anything to stop the harassment and about the laws when workplace harassment is reported by an employee to her manager. Nichols replied that the Respondent thought the harassment had stopped and then when it started again the Respondent contends that the Complainant did not want anything done about it.

Shobe asked if Nichols had found any evidence that the employee accused of harassing the Complainant had done so to other employees as well. Nichols said there were two individuals that the employee was reported to have touched, one was the Complainant the other was the supervisor. Nichols said the supervisor said the contact only consisted of hugging.

Shobe asked about the separation and the definition of constructive discharge. Nichols replied that constructive discharge can be when the Respondent acted in such a way that it appeared they wanted the employee to quit or it can be when the working conditions become so severe and intolerable that the employee feels he or she has no choice but to quit.

Hearing no further discussion, Chairperson Shobe asked for the roll call. Voting "aye" was: Shobe, Reece, Baron, Oldfield, Rehm, and Thompson. Motion was carried for a finding of reasonable cause on all issues.

LCHR #15-0327-009-E-R

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

Shobe asked for an explanation about the independent contractor status of the Complainant. Littrell explained that the Complainant previously was a W4 employee, but upon returning to work after her leave, the only job opening available was for a driver as an independent contractor. There was discussion about the particular licensing requirements for the different positions available through the Respondent.

Thompson asked if the Complainant was promised the same job when she returned to work. Littrell said the Respondent did not promise to hold the same position for her. She was away from work for one year and the Respondent was not required to hold Complainant's job for that period of time.

There was discussion about the type of work the Complainant had been doing before going on leave. Littrell explained the difference between office work and dispatch work. The Complainant did turn down jobs that were offered to her by the Respondent due to the hours offered and the nature of the positions.

Shobe asked about reasonable accommodation and if an accommodation was requested. Littrell replied that because of the nature of the independent contractor work, the Complainant did not require an accommodation. She was able to turn down as many opportunities to work as she wanted to and still attend her medical appointments.

Shobe asked about the Complainant's separation from the Respondent. Littrell said the Complainant failed a licensing test. She then alleged that the Respondent told her that unless someone died, the Respondent had no position for her, and she was thereafter discharged. The Respondent admitted that he suggested that the Complainant could work a more regular and consistent schedule with a license but nonetheless she could continue driving as an independent contractor despite failing the physical.

Hearing no further discussion, Chairperson Shobe asked for the roll call. Voting "aye" was: Shobe, Reece, Baron, Oldfield, Rehm, and Thompson. Motion for a finding of no reasonable cause carried.

PRE-DETERMINATION SETTLEMENT AGREEMENTS:

LCHR #15-0226-001-H

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

Chairperson Shobe asked for the roll call. Voting "aye" was: Shobe, Reece, Baron, Oldfield, Rehm, and Thompson. Motion to accept carried.

LCHR #15-0409-007-H

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

Chairperson Shobe asked for the roll call. Voting "aye" was: Shobe, Reece, Baron, Oldfield, Rehm, and Thompson. Motion to accept carried.

LCHR #15-0428-012-E-R

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

Chairperson Shobe asked for the roll call. Voting "aye" was: Shobe, Reece, Baron, Oldfield, Rehm, and Thompson. Motion to accept carried.

LCHR #15-0605-016-E-R

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

Chairperson Shobe asked for the roll call. Voting "aye" was: Shobe, Reece, Baron, Oldfield, Rehm, and Thompson. Motion to accept carried.

OLD BUSINESS:

Training updates

Nichols attended the National Fair Housing Training academy in Dallas June 6 & 7. She said it was a good review and a good way to rekindle her passion for fair housing work. She stated she also obtained contacts for speakers for the 2016 Civil Rights Conference.

Littrell and Taylor-Riley attended the Regional HUD Training in Kansas City. Training was provided on quality investigative techniques. There is to be a change in how LCHR is assessed by HUD. Taylor-Riley reported that the assessment and evaluation matrix was used in LCHR's HUD evaluation in May, 2015. Commissioners asked for more explanation about the changes being made to HUD evaluations. Taylor-Riley replied that the areas evaluated in the assessments have not changed, but HUD may weigh each element differently. These changes may affect LCHR's processing of Housing Discrimination Complaints.

Taylor-Riley said she did not attend the National Consortium on Racial and Ethnic Fairness in the Courts Conference in Buffalo, New York due to a flight cancellation. Commissioners asked about training opportunities for commissioners. Taylor-Riley advised that more training funds are available through LCHR's HUD contract than through the agency's contract with EEOC.

Commissioner Rehm said there will be ½ day training in September in Omaha. He will forward the information to LCHR to distribute.

Outreach Activities

Roberts updated the Commissioners on outreach activities. She continues to work with Lincoln Housing Authority, Centerpointe, Community Action Partnership and RentWise. Recently she began a partnership with the American Job Center. In the coming weeks and months she plans to collaborate with Lutheran Family Services. She also announced that Lincoln Public Schools will be centralizing services at Park Middle School and that she will be teaching a Cultural Awareness class through UNL and SCC.

NEW BUSINESS:

New Partnerships

It was stated that the Department of Labor may be a potential source of referrals for the LCHR. Commissioner Baron asked about going along with Roberts to events/ agencies.

Taylor-Riley discussed the Supreme Court and disparate impact in housing ruling. Commissioner Rehm asked if disparate impact is being considered in employment. Taylor-Riley said that are looking at it also. There was discussion about Court rulings and same sex marriage and how it will impact other laws and if they will become a protected class.

Koi Bradley, a LCHR intern, was introduced to the Commissioners.

PUBLIC COMMENT:

There was no public comment.

The meeting was adjourned at 5:08 p.m.

Next Meeting:

Thursday, July 30, 2015, at 4:00 p.m.
555 S. 10th Street, 1st floor, City Council Chambers.