

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

Thursday, July 30, 2015  
City Council Chambers

**CALL TO ORDER:**

The July 30, 2015, meeting of the Commission on Human Rights was called to order at 4:00 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, Takako Olson, Melanie Ways and Micheal Q. Thompson. Quorum present. Jon Rehm joined the meeting at 4:04 p.m.

**MEMBERS ABSENT:**

Commissioners: Liz Kennedy-King

**STAFF PRESENT:**

LCHR: Kimberley Taylor-Riley, Margie Nichols, Abigail Littrell, Loren Roberts, Jocelyn Golden, and Peg Dillon.

**APPROVAL OF JUNE 25, 2015, MINUTES:**

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

Chairperson Shobe asked for the roll call. Voting "aye" was: Shobe, Baron, Oldfield, Olson, and Thompson. Motion carried. Abstaining was Reece and Ways.

**APPROVAL OF JULY 30, 2015, AGENDA:**

A motion was made by Ways and seconded Olson to approve the meeting agenda.

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

**CASE DISPOSITIONS:**  
**LCHR #15-0220-004-E-R**

A motion was made by Reece and seconded by Baron to recommend a finding of **no reasonable cause** on all issues.

Shobe asked about the Respondent's policy that the employee needs to find their own replacement to work when they cannot. Littrell said if the employee knew in advance that they could not work their shift they were asked to find someone to fill in for them, but on a short notice such as calling in sick, the Manager was ultimately required to find a replacement for the employee. Ways asked about the incident when the Complainant tried to report in sick but was allegedly told she had to find a replacement. Littrell said in this case the Complainant called to let them know that she was headed to the hospital. There were conflicting accounts of what the Manager said.

Shobe asked about the Respondent's request for a doctor's note verifying the reasonable accommodation request and FMLA leave. The first request was for a lifting reasonable accommodation. Even though a note was never supplied, the Respondent accommodated the Complainant's request to not lift heavy boxes. The second request was for FMLA leave. The Respondent did place the Complainant on FMLA leave even though no documentation was supplied because the doctor would not write one. The doctor ultimately told the Complainant that she should not be working at all.

Baron asked about the new manager and if there were different expectations for the employees. Littrell said she found that the expectations weren't different but there might have been different managerial styles.

There was discussion about accommodations and what procedure was in place for reasonable accommodations. Littrell said even though there was no written procedure, the Respondent accommodated the Complainant's requests.

Rehm asked for more detail about the Complainant's disability. Littrell provided citation in the investigative report detailing the disability.

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

**LCHR #15-0220-005-E-R**

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

There was discussion about a comment the Respondent made to the Complainant. The Respondent reportedly said 'it's your choice' in her conversation with the Complainant about her

poor attendance. The Complainant alleged that this was a comment about her marital status, but the Respondent contended it was referring to the Complainant's not making the choice to make work a priority.

Thompson asked about the records of the Complainant's tardiness and if it was accurate. Littrell replied that yes it was correct because of the clock in/clock system of time reporting. The Complainant admitted she had punctuality issues, but that she believed they had been addressed and were not terminable offences.

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

**LCHR #15-0330-004-H**

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

Thompson asked about the lack of documentation and records available concerning the Respondent's business. Littrell replied that it was unfortunate that the Respondent was served papers from LCHR the day before the Respondent abandoned the business and destroyed all records of the business. All employment records and guest records were destroyed. Littrell said she was unable to get a response from the Respondent business.

There was discussion about several harassing incidents that were alleged by the Complainant. Littrell found no evidence that the harassment of the Complainants beyond the Complainants' own allegations. The Respondent manager denied harassing the Complainants in any way.

Thompson asked if Littrell asked the Complainant about moving out in the middle of the night. Littrell said that the Complainants said they did not leave in the middle of night but moved out at 1:00 p.m. in the afternoon.

Reece asked about conflicting evidence over the conflict between the manager and the Complainant. Littrell said the Complainants alleged that the manager threatened to quit because of issues with Complainants and they believed that the owner was trying to get rid of Complainants so that the manager would return to work.

Rehm questioned the timing of the LCHR charge and the destruction of all of Respondent's business records. There was discussion about reasonable cause standard applied to housing discrimination cases.

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

**LCHR #15-0421-011-E-R**

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

Reece asked about the Respondent's point system that reflected tardiness and absence of employees. Littrell explained that Complainant had not exhausted her allowable points at the time of her termination.

Shobe asked about race versus ancestry as a protected class. Littrell said the Complainant alleged that since she was 100 percent African American that she was being treated differently compared to bi-racial employees.

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

**LCHR #15-0428-009-H**

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

Thompson asked whether the Complainants signed a lease. Nichols said that the paperwork the Complainant provided for the investigation was a signed application form. She stated the Respondent has online and paper forms, and that the Complainant's husband had completed the online form and the Complainant completed a paper form. Thompson asked about the application fee and if it was returned to the Complainant. Nichols said no, it was not returned to the Complainant and that was the Respondent's standard procedure to charge a non-refundable fee of \$30 per applicant age 18 and over.

Thompson asked if the Complainants were informed that they had to submit to a credit history check. Nichols advised that they may not have understood this requirement due to the language barrier.

Olson asked whether interpreters were available for non-English speaking applicants and tenants. Nichols said no.

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

**LCHR #15-0617-011-H**

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

Thompson asked about the Respondent's requirement that the Complainant must have his wife's information and signature in order to rent an apartment. Nichols said that even though the apartment rental was approved, because of the HUD Low Income Housing Tax Credit (LIHTC) eligibility rules, the Respondent had to have both parties' information and signatures before renting to them; regardless of where the wife was living at the time. There was discussion about this requirement causing issues for immigrants that come to this country without their spouses. It was discussed that the Respondent had no discretion in applying this requirement to applicants due to the HUD rules and regulations LIHTC recipients.

Rehm asked if it was possible for the tenant to rent the apartment without his wife's signature and not take the tax credit. Nichols said no, because the Complainant was using a Section 8 Housing voucher for the apartment, which meant he would be renting an apartment designated for low-income tenants.

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

**ADMINISTRATIVE CLOSURES:**

**LCHR #15-0225-006-E-R**

A motion was made by Reece and seconded by Thompson to recommend an approval of the administrative closure based on a Notice of Right to Sue.

Nichols said the Commission found reasonable cause on all counts for this case at the June, 2015, meeting. She stated the Notice of Right to Sue was requested by the Complainant. Rehm asked for more detail on the conciliation efforts in this case. Nichols explained there was initial contact but it did not go any further after that.

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

**LCHR #15-0428-008-H**

A motion was made by Ways and seconded by Rehm to recommend an approval of the administrative closure as a Deferral to HUD.

Littrell said the Respondent requested the case be deferred to HUD.

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

## **OLD BUSINESS:**

### **Outreach Activities**

Roberts said she is working with The American Job Center and other re-employment agencies to assist job seekers find employment opportunities. She thanked Commissioner Baron for joining her in meeting with one of the employment specialists.

Roberts highlighted upcoming events: Streets Alive on September 20<sup>th</sup> and Project Homeless Connect on September 29<sup>th</sup>. There will be new posters printed that will advertise the Commission's employment discrimination jurisdiction. New promotional items are being developed with LCHR's name and contact information to be handed out at events.

Roberts is working with Dr. Kamble on developing a training session for case managers, landlords, health department staff and anyone interested in learning how to manage bed bug infestations.

Roberts and Bradley are working on contacting local people that are civil rights advocates in Lincoln for the Civil Rights Conference and LCHR's 50 year anniversary.

There was discussion about the Prosper Lincoln initiative. Roberts highlighted what she is doing to help improve affordable and fair housing in Lincoln.

## **NEW BUSINESS:**

### **2016 Civil Rights Conference**

Planning continues for the April 2016 Civil Rights Conference. Proposed dates were selected and bids are going out to local venues. Topics and speakers are being selected and plans are being developed to celebrate the 50<sup>th</sup> Anniversary of the Lincoln Commission on Human Rights.

### **Upcoming Training**

Nichols and Taylor-Riley attended EEOC training in Omaha.

Taylor-Riley will attend the IAOHRA Annual Conference in Birmingham, Alabama in September. There will be content regarding Police and community relations. Littrell will attend FEPA training in Atlanta, Georgia. Nichols will attend housing training in Chicago.

There was discussion on the Supreme Court ruling on same sex marriages. Taylor-Riley talked about changes to existing law proposed to Congress. Both housing and employment cases could be impacted as more legally married same sex couples experience discrimination.

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Rehm pointed out an excellent article in the Lincoln Bar Association newsletter highlighting the work done by Lincoln Commission on Human Rights written by Littrell. Commissioners thanked the investigators for their work on case reviews and incorporating new technology in the case reviews.

**PUBLIC COMMENT:**  
No Public Comment

The meeting was adjourned at 5:21 p.m.

**Next Meeting:**  
Thursday, August 27, 2015, at 4:00 p.m.  
555 S. 10<sup>th</sup> Street, 1st floor, City Council Chambers.