CITY OF LINCOLN, NEBRASKA
COMMISSION ON HUMAN RIGHTS
MINUTES

Thursday, August 27, 2015
City Council Chambers

CALL TO ORDER:
The August 27, 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, Liz Kennedy-King, Takako Olson, Melanie Ways. Quorum present.

MEMBERS ABSENT:
Commissioners: Micheal Q. Thompson, Jon Rehm and Susan Oldfield.

STAFF PRESENT:
LCHR: Kimberley Taylor-Riley, Margie Nichols, Abigail Littrell, Loren Roberts, and Mary Carol Bond.

APPROVAL OF JULY 30, 2015, MINUTES:
A motion was made by Reece and seconded by Olson to approve the minutes of the previous meeting.
Chairperson Shobe asked for the roll call. Voting "aye" was: Shobe, Baron, Kennedy-King, Olson, Reece and Ways. Motion carried. Chairperson Shobe noted at this time that Commissioner Kennedy-King joined the meeting during this vote.

APPROVAL OF AUGUST 27, 2015, AGENDA:
Chairperson Shobe noted the removal of agenda item LCHR NO. 15-0722-021-E-R.

A motion was made by Kennedy-King and seconded by Ways to approve the amended meeting agenda.

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

CASE DISPOSITIONS:
LCHR #15-420-010-E-R
A motion was made by Olson and seconded by Baron to recommend a finding of **no reasonable cause** on all issues.

Kennedy-King asked what 'reasonable accommodation' means in relation to this case, specifically in regard to the covering of machines while on break without harassment. Nichols said if the Complainant had been singled out with regard to taking breaks then it could be denial of a reasonable accommodation request; however, the yelling was widespread and seemed to stem from a particular supervisor's frustration with the equipment and workload and his poor management style, and not connected to the Complainant's disability or his need for accommodation.

Shobe asked whether or not the poor management style of the particular supervisor, which did seem widespread, created a hostile work environment. Nichols answered that there had to be disparate treatment of a party based on the protected class for that to be the case and the supervisor in question treated everyone in this way. Shobe said it seemed that the Respondent had provided clear instruction that the Complainant take breaks as needed to monitor his disability and that this was a reasonable accommodation. Nichols pointed out that there was a consistent response from the Respondent to the Complainant to officially document the issue he was having so they could address it, but that when he finally agreed to do so, he then also resigned and left the workplace before he could see the results of any corrective action taken by the Respondent.

Reece asked about the physical altercation that may or may not have occurred and asked what the difference was between being pushed or being moved in the context of the allegations. Nichols said some of the difference was whether it was done with animus or anger on the part of the supervisor or whether he laid hands on the Complainant simply to move him out of his way to get to the machine. Nichols also noted that it again had not been connected to the disability but to the poor management style of the supervisor and that the supervisor had been talked to about this management style by the Respondent. The supervisor had been asked to change that style and cease certain behaviors because of the official complaint. Baron asked why it had taken so long for the upper management to address the management style issue, and Nichols responded that Respondent stated it received no official, written grievance to that point, and when it did, within weeks the Complainant had left employment. Shobe, Kennedy-King and Nichols agreed that the work environment was not pleasant but not connected to the disability and that it was unfortunate but the Respondent lost a good employee as a result of the poor management style and the lack of corrective action until the complaint was official.

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

LCHR #15-0518-014-E-R
A motion was made by Kennedy-King and seconded by Reece to recommend a finding of **No Reasonable Cause** on both issues.

Ways asked about the Respondent's statement made where management "saw things they didn't like" and what that meant. Nichols said that the video referenced was the last straw for management; there had been documented disciplinary issues and then as they reviewed tapes the general manager saw the Complainant yelling at other employees and engaging in other bad behavior. Shobe noted he was bothered by the money issue, but noted that there was another employee who had also had a stroke but remained employed by the Respondent. Nichols said there were other employees management had worked with to keep employed despite health issues. Nichols stated these comparators indicated that the disability was not the motivating factor in the Complainant's dismissal, but that the missing money and other disciplinary issues had been, including the participation of the Complainant in an unauthorized public relations event at which merchandize was given away contrary to specific instruction.

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

LCHR #15-0702-013-H
A motion was made by Ways and seconded by Olson to recommend a finding of **No Reasonable Cause** in all three issues.

Olson stated she found the situation as described as frustrating but agreed it was not discriminatory, and that for the Respondent to blame it all on the software was upsetting and not professional.

Shobe wondered if there was a lack of enthusiasm to fix the problems because of the protected class (national origin) and asked if there was evidence of this. Littrell said it would be difficult to make that case as the people who could fix the problems outlined were in Colorado and not directly interacting with the Complainants and some of the customer service reps made multiple attempts to get the problems fixed.

Kennedy-King and Reece took issue with the fact that the Respondent claimed there was no harm done to the Complainants once the computer issues were fixed, as the legal proceedings and financial threats caused stress for the Complainants. Littrell agreed that there was harm caused but that the harm was not motivated by or related to the protected class. Olson asked if there were any other recourse for the complainants, small claims court etc. for them to recoup damages.

Littrell pointed out that her during her follow-up with the Respondents that the staff at the office was trying to learn from the incident and catch computer errors occurring outside their office. She explained the office staff in Lincoln had been compassionate during the initial issues while working with the Complainants. The lack of flexibility in the payment process was discussed but was found not to rise to the level of discrimination.

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

PRE-DETERMINATION AGREEMENTS:

LCHR #15-0625-012-H
A motion was made by Reece and seconded by Kennedy-King to recommend an approval of the pre-determination settlement.

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

LCHR #15-0710-014-H
A motion was made by Reece and seconded by Ways to recommend an approval of the pre-determination settlement.

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

OLD BUSINESS:

Outreach Activities
Roberts reported the Commission office was able to obtain a mini-grant from Equal Employment Opportunity Commission for promotional posters focused on employment protection. The Citizen Information Center, the Law Department and the Commission helped design the poster and she has spent time getting the posters out to agencies and other community resources.

Other promotional items have also been obtained to help get the word out about the Commission's work and to get the phone number of the Commission into people's houses. Roberts displayed the posters and materials to the Commissioners and mentioned some other groups she is working with including the American Job Center, Workforce Development, Lincoln Housing Authority, RentWise, Community Action and CenterPointe.
Roberts reported that 65 people have registered for the free bedbug/family health training coming up at the UNL Extension office on September 14th from 1-3 p.m. Participants range from non-profit staff, landlords, tenants, childcare center staff and others.

The Commission will also have a booth at Streets Alive on September 20th from 1-5 p.m. as well as at Project Homeless Connect at the Pinnacle Bank Arena on September 29th and a class at Southeast Community college. September 15 through October 15 is Hispanic Heritage Month and there is a celebration at the Capitol on October 9th.

AFFH
Taylor-Riley talked about HUD's new initiative, Affirmatively Furthering Fair Housing, for which the Commission staff is undergoing some training. HUD would like its partners like the Commission to act as a voice for affordable and fair housing as cities engage in development projects.

Shobe asked how this relates to the student housing going up around town and recent issues with the quality and accessibility of such housing, familial status discrimination, etc. and there was discussion about how the Commission might engage with the City and the various involved boards/councils that hear and propose housing plans in addressing issues including such things as blighted designations and still maintain neutrality.

NEW BUSINESS:
2016 Civil Rights Conference
Planning continues for the April 2016 Civil Rights Conference. Venues are being sought to accommodate 225 people; the office is waiting to hear back from the hotels. US Citizenship and Information Services would like to offer programming for the conference related to E-verification.

Upcoming Training
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 fair housing training in Chicago.

PUBLIC COMMENT:
No Public Comment

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

Next Meeting:
Thursday, September 24, 2015, at 4:00 p.m.
555 S. 10th Street, 1st floor, City Council Chambers.