

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

Thursday, December 10, 2015  
City County Building, Room 303

**CALL TO ORDER:**

The December 10, 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, Susan Oldfield, Takako Olson, and Jon Rehm. Quorum present.

**MEMBERS ABSENT:**

Commissioners: Melanie Ways and Micheal Q. Thompson.

**STAFF PRESENT:**

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

**APPROVAL OF OCTOBER 29, 2015, MINUTES:**

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

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

**APPROVAL OF DECEMBER 10, 2015, AGENDA:**

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

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

**CASE DISPOSITIONS:**

**LCHR #15-0722-022-E-R**

A motion was made by Kennedy-King and seconded by Baron to recommend a finding of **no reasonable cause**.

Shobe asked whether the Complainant was disabled, under the law. Nichols explained that the Complainant believed he was wrongfully discharged, but the evidence did not show that the Respondent was on notice that the Complainant was disabled. Shobe inquired whether the Respondent should have known about the Complainant's disability and Nichols responded there was no evidence Complainant was visibly disabled or requested a reasonable accommodation for his disability.

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

**LCHR #15-0729-023-E-R**

Rehm excused himself due to conflict of interest and left the meeting room.

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

Shobe asked about two males that were let go from the company. Nichols said one resigned and the other quit for health reasons.

Baron questioned why there was no record of the verbal warning. Nichols said that some employers make a record of verbal warnings, but some, like the Respondent, does not. Reece said she thought the record showed that this company hires older employees. Nichols agreed.

Baron questioned the error in recorded vacation hours for the Complainant. Nichols said Respondent did not discover the error until the employee had quit when they were reviewing how much vacation pay was owed to Complainant. Baron asked if the Company is required to pay for the hours recorded in error. Nichols said the policy listed the correct number of vacation hours that were to be awarded for each year of service and Complainant was aware of the policy.

Hearing no further discussion, Rehm was called back into the room and Chairperson Shobe asked for the roll call. Voting "aye" was: Shobe, Reece, Baron, Kennedy-King, Oldfield, and Olson. Abstaining was Rehm. Motion carried.

**LCHR #15-0814-024-E-R**

A motion was made by Kennedy-King and seconded by Rehm to recommend a finding of **reasonable cause** on the basis of national origin.

Kennedy-King said that everyone should be able to work and pursue a job even if they have an accent. There was discussion about how the restriction on Complainant's phone access could restrict her advancement within the company. Reece asked for clarification on how the restriction to answer the main phone affected the Complainant. Littrell replied that Complainant asserted she felt victimized, targeted, humiliated, and feared her co-workers would believe she was not a team player.

There was discussion about the Complainant's performance and Littrell said Complainant's performance was historically satisfactory or above satisfactory. There was discussion about how a reasonable cause finding would affect a court case or conciliation. Reece and Baron noted that Complainant once held the position of Assistant Manager.

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

**LCHR #15-0826-028-E-R**

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

Kennedy-King questioned why the Complainant did not allege discrimination based on race. Littrell replied Complainant knew he could make allegations of both race and disability discrimination and Complainant declined. There was discussion about Complainant's work performance. Littrell said he was very good at his job and once received the employee of the month award. Complainant preferred to keep to himself at work, perform his duties and go home.

Rehm asked questions about the doctor's work restriction notes and the notes of the worker's compensation case manager. Littrell acknowledged the parties were involved in a separate worker's compensation matter.

There was discussion about whether Complainant asked for a reasonable accommodation on his last day of work and whether Respondent agreed to provide that accommodation. Littrell stated other employees and managers felt threatened by the Complainant. Rehm asked about the reasons for termination listed on Respondent's termination paperwork. Littrell said the Respondent supplied evidence that the Complainant was asked not to return to a health care provider because of his hostile conduct.

Complainant and Respondent provided conflicting accounts of what happened on the Complainant's last day and also what happened when the Complainant tried to return to work. The Respondent denied Complainant was excused to go home and contended Complainant never explained why he was leaving.

There was discussion about the Doctor's release and how restricted Complainant was in his ability to work. Following his termination, the Complainant was only released for sedentary work but he insisted that he could perform the job of a janitor and a dishwasher. There was discussion about how reliable the doctor's assessment of Complainant's abilities was.

Kennedy-King and Rehm expressed a desire to vote on each cause separately.

Hearing no further discussion, Chairperson Shobe asked for the roll call. Voting "aye" was: Shobe, Reece, and Olson. Voting 'no' was Baron, Kennedy-King, Oldfield, and Rehm. Motion for **no reasonable cause** on all issues failed.

A motion was made by Rehm and seconded by Kennedy-King to recommend a finding of **reasonable cause** on the issue of the Complainant being denied a reasonable accommodation.

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

A motion was made by Reece and seconded by Olson to recommend a finding of **no reasonable cause** on the issue of the Complainant being denied a reasonable accommodation.

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

A motion was made by Kennedy-King and seconded by Rehm to recommend a finding of **reasonable cause** on the issue of the Complainant being terminated on the basis of a disability.

Reece noted that whether Complainant had permission to leave before the end of his shift was important. Nichols suggested the Commissioners consider why the manager had followed the Complainant into the parking lot. There was discussion about whether the reasonable accommodation provisions of the law require an employer to allow an employee to leave work without notice or explicit permission.

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

A motion was made by Reece and seconded by Olson to recommend a finding of **no reasonable cause** on the issue of the Complainant being terminated on the basis of a disability.

Hearing no discussion, Chairperson Shobe asked for the roll call. Voting “aye” was: Shobe, Reece, Oldfield, Olson, and Rehm. Voting ‘no’ was Baron and Kennedy-King. Motion carried.

A motion was made by Olson and seconded by Reece to recommend a finding of **no reasonable cause** on the issue of the Complainant being retaliated against for engaging in a protected activity.

Hearing no discussion, Chairperson Shobe asked for the roll call. Voting “aye” was: Shobe, Reece, Baron, Oldfield, and Olson. Voting ‘no’ was Rehm and Kennedy-King. Motion carried.

**LCHR #15-0828-017-H**

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

Kennedy-King asked if a landlord has discretion to not renew a lease. Nichols affirmed landlords can choose to not renew a lease at the end of the lease period and they do not have to provide a reason.

Shobe thought the timing of family visits and the non-renewal might be suspicious. Nichols responded that the timing was somewhat suspect, but testing by the Fair Housing Center detected no discrimination. There was further discussion about the testing and if the Respondent might have known that it was a test and not an actual applicant. Nichols confirmed that both landlord and tenant have equal rights at the end of a lease.

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

**PRE-DETERMINATION AGREEMENTS:**

**LCHR #15-0312-002-H**

A motion was made by Kennedy-King and seconded by Reece to recommend approval of the pre-determination settlement agreement.

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

**LCHR #15-0312-003-H**

A motion was made by Oldfield and seconded by Baron to recommend approval of the pre-determination settlement agreement.

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

**LCHR #15-0930-019-H**

A motion was made by Reece and seconded by Kennedy-King to recommend approval of the pre-determination settlement agreement.

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

**LCHR #15-1002-020-H**

A motion was made by Oldfield and seconded by Baron to recommend approval of the pre-determination settlement agreement.

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

**LCHR #15-1002-021-H**

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

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

**LCHR #15-1009-023-H**

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

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

**LCHR #15-1103-026-H**

A motion was made by Reece and seconded by Shobe to recommend approval of the pre-determination settlement agreement.

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

**SUCCESSFUL CONCILIATION:**

**LCHR NO.: 15-0713-015-H**

A motion was made by Kennedy-King and seconded by Baron to recommend approval of the conciliation.

Littrell reminded the Commission they found reasonable cause to believe discrimination occurred in this case at the October, 2015, meeting. She told the Commission the parties reached an agreement after that determination.

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

**ADMINISTRATIVE CLOSURES:**

**LCHR NO.: 15-0918-003-PA**

A motion was made by Oldfield and seconded by Reece to recommend approval of the administrative closure due to a lack of jurisdiction.

Kennedy-King asked for explanation on why the Commission lack's jurisdiction. Littrell explained that the LCHR lacks jurisdiction to investigate an allegation that a public accommodation failed to make reasonable accommodations for a disabled patron. The Complainant was referred to the US Department of Justice.

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

**OLD BUSINESS:**

There was no Old Business presented.

**NEW BUSINESS:**

**2016 Civil Rights Conference/Outreach Coordinator**

Taylor-Riley updated the Commissioners on the planning for the 2016 Civil Rights Conference. The staff is working to line up speakers and finalize the agenda. Save the date will be sent out by the end of December.

Outreach Coordinator applications have been reviewed and five interviews are scheduled.

**Election of 2016 Lincoln Commission on Human Rights Board Officers**

Shobe was elected as the 2016 Chairperson for LCHR. Kennedy-King was elected as Vice-Chair for 2016.

**PUBLIC COMMENT:**

Nichols thanked Reece and Olson for their work as they complete their service to the Commission.

The meeting was adjourned at 5:40 p.m.

**Next Meeting:**

Thursday, January 28, 2016, at 4:00 p.m.  
555 S. 10<sup>th</sup> Street, 1st floor, City Council Chambers.