

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

Thursday, January 28, 2016  
City County Building, 555 S 10<sup>th</sup>, Council Chambers

**CALL TO ORDER:**

The January 28, 2016, meeting of the Commission on Human Rights was called to order at 4:01 p.m. by Bennie Shobe, Chair.

**ROLL CALL:**

The roll call was called and documented as follows:

**MEMBERS PRESENT:**

Commissioners: Bennie Shobe (Chair), Elizabeth Kennedy-King (Vice-chair), Amanda Baron, Susan Oldfield, and Micheal Q. Thompson. Melanie Ways joined at 4:06 p.m. Quorum present.

**MEMBERS ABSENT:**

Commissioners: Jon Rehm.

**STAFF PRESENT:**

LCHR: Kimberley Taylor-Riley, Abigail Littrell, Francisca Beltran, and Peg Dillon.

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

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

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

**APPROVAL OF JANUARY 28, 2016, AGENDA:**

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

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

A motion was made by Shobe and seconded Thompson to approve the meeting agenda and remove case #15-0814-024-E-R from the agenda.

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

**CASE DISPOSITIONS:**

**LCHR #15-0820-026-E-R**

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

Thompson asked when the no-felony policy was enacted and whether the policy applied to the comparator permanent employee. Littrell said the policy applied to temporary employees assigned by the staffing company, but not permanent employees. A permanent employee was only assigned to one branch of the business's operations while a temporary employee could be moved to different branches.

Shobe commented that the policy language provided 'any employee' with a felony could not work in the plant. Littrell explained again that the allegations in this case were against the staffing agency and that the factory's policies for permanent employees may be different. The factory ended the Complainant's assignment but the staffing agency continued to work with the Complainant to find him another assignment.

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

**LCHR #15-0820-027-E-R**

A motion was made by Shobe and seconded by Ways to recommend a finding of **no reasonable cause**.

Kennedy-King asked whether Respondent's policy of not accepting temporary employees with felony records was written. Littrell explained the Respondent's policy did not appear in writing, but Respondent provided copies of the federal law prohibiting felons from working in Respondent's factories that produced firearm mechanisms.

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

**LCHR #15-0911-018-H**

A motion was made by Thompson and seconded by Ways to recommend a finding of **no reasonable cause** on both allegations.

Thompson asked whether the Respondent avoided meeting with the Complainant. Littrell replied those were the Complainant's allegations and the Commission requested testing to determine whether Respondent habitually avoided protected-class prospective tenants.

Oldfield asked why the Respondent did not supply information on tenant ethnicity. Littrell said the Respondent was adamant she did not discriminate, that the information was not collected, and she felt it would violate the privacy of the tenants to release any demographic information.

Kennedy-King asked again about the first test and whether Respondent avoided the tester. Littrell advised there was a test coordinator in a car near the property during the test and she reported seeing the landlord in the rear of the property while the tester waited out front. The tester herself did not see the landlord observe the protected tester arriving. There was further discussion about the value of the first test and what evidence it provided.

Commissioners discussed the second test and its timing. Littrell agreed that if the first test was more orthodox and conclusive it would have been more reliable because it was conducted prior to Respondent receiving the discrimination Complaint. The second test revealed no discrimination but was conducted after the Respondent received the discrimination complaint.

There was discussion about the Complainant's claim the Respondent saw her and drove away to avoid meeting with her. Thompson asked about the text messages between the Respondent and the Complainant. Littrell replied that the Complainant used two different phones to call the Respondent so the Respondent may not have been aware that it was the same person inquiring about the property.

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

**LCHR #15-0923-031-E-R**

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

There was discussion about why the Complainant failed to timely submit the required documentation to approve FMLA leave. Littrell said Complainant affirmed the Respondent had the correct email and physical address for the Complainant. Respondent provided copies of emails and letters sent to the Complainant concerning deadlines for submitting forms and doctor authorizations.

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

**LCHR #15-0930-004-PA**

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

Shobe commented that both parties were probably at fault for the confrontation. Littrell said there was conflicting evidence on whether the sign requiring a purchase by keno players was posted at the time of the incident. There was discussion about the Complainant's role in escalating the situation.

There was discussion about Complainant's prior visits to Respondent's establishment and the relationship between the Complainant and the Respondent. Littrell said the public accommodation cases require a determination that the Respondent refused to provide the

Complainant its primary goods or services. In this case, the Complainant refused to purchase food or drink, which was the Respondent's primary service.

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

**LCHR #15-1023-025-H**

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

There was discussion about the Respondent's vague reasons for denying Complainant's application and the verifiable reasons her application was declined.

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

**PRE-DETERMINATION AGREEMENTS:**

**LCHR #15-1007-034-E-R**

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

There was discussion about the settlement and how the parties arrive at an agreeable figure.

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

**LCHR #15-1027-038-E-R**

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

Shobe expressed concern about the allegations in this case and asked for explanation. Littrell said this case involved the Respondent's company as well as a staffing agency. Littrell explained that in a pre-determination settlement there is no admission of guilt or fault and the Complainant has agreed to drop all claims against the Respondent in exchange for the settlement.

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

**LCHR #15-1106-028-H**

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

Ways inquired whether there was a monetary settlement in this case. Littrell said no there was not.

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

**LCHR #15-1119-040-E-R**

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

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

**LCHR #15-1208-044-E-R**

A motion was made by Ways 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, Kennedy-King, Baron, Oldfield, Thompson, and Ways. Motion carried.

**ADMINISTRATIVE CLOSURES:**

**LCHR NO.: 15-1013-024-H**

A motion was made by Oldfield and seconded by Thompson to recommend approval of the administrative closure due to failure to locate.

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

**LCHR NO.: 15-1103-039-E**

A motion was made by Shobe and seconded by Kennedy-King to recommend approval of the administrative closure due to a lack of jurisdiction.

Baron asked if this Complainant could sue the Respondent. Littrell said that alternative labor and employment laws, not under the jurisdiction of the Commission, may provide relief for the Complainant.

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

**LCHR NO.: 15-1106-029-H**

A motion was made by Thompson and seconded by Baron to recommend approval of the administrative closure due to a withdrawal.

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

**OLD BUSINESS:**

**Outreach**

Taylor-Riley introduced the new Outreach Coordinator, Francisca Beltran. Beltran talked about the progress on funding for the 2016 Civil Rights Conference. The brochures for the conference are posted on the website and will be emailed and mailed to perspective attendees.

Outreach Coordinator Beltran was previously involved with Community Action Partnership, LPS, Lincoln Housing Authority and RentWise before coming to the City Attorney's Office and LCHR.

**NEW BUSINESS:**

**Gerald Henderson Award**

The award nomination form is posted on LCHR's website and the Commission hopes to receive several nominations which will be voted on by the Commissioners at the March Commission meeting. Taylor-Riley asked for the Commissioners to moderate sessions at the Civil Rights Conference.

**2015 Review of cases and trends**

The 2015 year brought a trend of more Housing cases for a total of 32 with 46 Employment cases filed.

**PUBLIC COMMENT:**

Kennedy-King discussed The Mediation Center in Lincoln Nebraska. There is a need for more volunteers. They offer training courses to prepare volunteers to mediate cases.

The meeting was adjourned at 5:18 p.m.

**Next Meeting:**

Thursday, February 25, 2016, at 4:00 p.m.  
555 S. 10<sup>th</sup> Street, 1st floor, City Council Chambers.