

**CITY OF LINCOLN, NEBRASKA
COMMISSION ON HUMAN RIGHTS
MINUTES
Thursday, February 25, 2010**

CALL TO ORDER/ROLL CALL

The February 25, 2010 meeting of the Commission on Human Rights was called to order at 4:05 p.m. by Chairperson Wendy Francis.

Roll Call was documented as follows:

MEMBERS PRESENT

Commissioners Wendy Francis, Dick Noble, Hazell Rodriguez, Gene Crump and Jose Quintero. Quorum present.

MEMBERS ABSENT

Commissioner Cooper

STAFF PRESENT

Director Larry Williams, Investigator Angela Wortman and Intern Crystal Scholl. Director Williams indicated Investigator Nichols was ill and unable to attend.

APPROVAL OF JANUARY 28, 2010 MINUTES

A motion was made by Commissioner Noble and seconded by Commissioner Quintero to approve the minutes of the January 28, 2010 meeting. Chair Francis requested roll call.

Voting Aye: Commissioners Crump, Noble, Quintero, Rodriguez, Francis.
Motion to approve the January 28, 2010 minutes carried 5-0.

APPROVAL OF FEBRUARY 25, 2010 AGENDA

A motion was made by Commissioner Crump and seconded by Commissioner Noble to approve the February 25, 2010 meeting agenda.

Voting Aye: Commissioners Crump, Noble, Quintero, Rodriguez, Francis.
Motion to approve the February 25, 2010 Agenda carried 5-0.

CASE DISPOSITIONS

1. LCHR No.: 09-0730-037-E-R

A motion for a finding of No Reasonable Cause was made by Commissioner Crump and seconded by Commissioner Noble.

Commissioner Rodriguez drew attention to Investigator's Report, asking if any other employee had also been terminated and if there was any way to determine who was responsible for the inspection failure. Investigator Wortman replied that the Respondent indicated the Complainant would hide equipment from another female employee who only worked on the Complainant's day off. This employee was also

terminated, but was later rehired. Investigator Wortman continued to say that one of the main reasons the inspection failed was due to not maintaining the equipment which was the Complainant's responsibility. According to the Respondent only two other employees besides the Complainant and her husband had been terminated.

Hearing no further discussion, Chair Francis asked the roll be called.

Voting Aye: Commissioners Crump, Noble, Quintero, Rodriguez and Francis.

Motion for a finding of **No Reasonable Cause** carried 5-0.

2. LCHR No.: 09-0803-041-E-R

A motion for a finding of No Reasonable Cause was made by Commissioner Crump and seconded by Commissioner Quintero.

Commissioner Rodriguez asked for clarification on how the Complainant's job responsibilities were reduced and then eliminated. She noted there were three other employees terminated and three new hires, plus a nephew who came in to work. Investigator Wortman indicated it was Investigator Nichol's case. Her understanding was that the Complainant's hours were reduced, then management determined the job could be eliminated and the hours absorbed by existing Laundry/Housekeeping staff. However, three employees were no call/no shows and, since they were short handed, the nephew came in for a short time to work cleaning the common areas and to do laundry.

Investigator Wortman continued that the file indicated the Complainant did not appear to understand why he was losing his job. Complainant alleges he wasn't told why, only that he was no longer needed. According to the Respondent, the female owner explained to him, through his bi-lingual supervisor, that his services were no longer needed because of lack of work. The owner continued that when his hours were initially reduced, it was explained to him then that there could be further changes in the future.

Commissioner Rodriguez asked if there was any policy of putting terminations into writing. Investigator Wortman replied no. Commissioner Rodriguez asked if the Complainant now understood why he was terminated. Investigator Wortman indicated she had done the intake and Complainant seemed somewhat confused throughout the process of meetings with interpreters and phone conversations, as to who the Commission was and what was going on. Commissioner Rodriguez asked if there could be a recommendation that, in the future, the Respondent send something in writing explaining why an employee was being terminated.

Hearing no further discussion, Chair Francis requested roll be called.

Voting Aye: Commissioners: Noble, Quintero, Rodriguez, Francis, Crump.

Motion for a finding of **No Reasonable Cause** carried 5-0.

3. LCHR No.: 09-0814-042-E-R

A motion for a finding of No Reasonable Cause was made by Commissioner Rodriguez and seconded by Commissioner Noble.

Commissioner Rodriguez noted that the store manager admitted frustration with, and actually cursed at, the Complainant. She asked in terms of store policy and in view of the fact that the Complainant was

terminated because of the way he treated other people, was there any disciplinary action taken regarding the store manager, and if not, why. Investigator Wortman said the store does have a standard written policy of conduct, but no action was taken regarding the store manager who had apologized for cursing. When asked, Investigator Wortman indicated the store manager's supervisor was the district manager.

According to Wortman, the Complainant had called Corporate after he was counseled by the store manager about the allegations of pushing another co-worker. Complainant alleges Corporate did not call him back to address his concerns about the store manager; however, Corporate did contact the Complainant to investigate the alleged pushing. Investigator Wortman added that there was no evidence to show Complainant brought up that he had been cursed at by the store manager, nor was it included in the Respondent's notes of their meeting with the Complainant.

Commissioner Francis noted that white employees, both male and female, had been terminated based on their conduct with co-workers, but not necessarily because they pushed another employee. Investigator Wortman concurred and added that the Complainant denied intentionally pushing the co-worker.

Hearing no further discussion, Chair Francis requested the roll be called.

Voting Aye: Commissioners Quintero, Rodriguez, Crump, Noble and Francis.

Motion for a finding of **No Reasonable Cause** carried 5-0.

4. LCHR No.: 09-0911-046-E-R

A motion for a finding of No Reasonable Cause was made by Commissioner Noble and seconded by Commissioner Crump.

Investigator Rodriguez questioned the Respondent's policy on employees sharing living arrangements and working together and whether the Complainant was demoted because there was not a comparable bartending job available at the other location. She also asked if the two comparables mentioned in the report were in the same situation, or did they get their same jobs when transferred. Investigator Wortman advised again that this was Investigator Nichols' case, but it was her understanding the comparables did go to similar positions. She added that it was circumstantial that there was not another bartender position open at the other location for the Complainant.

Hearing no further discussion Chair Francis requested the roll be called.

Voting Aye: Commissioners Rodriguez, Crump, Noble, Quintero and Francis.

Motion for a finding of **No Reasonable Cause** carried 5-0.

5. LCHR No.: 09-0911-047-E-R

A motion for a finding of No Reasonable Cause was made by Commissioner Rodriguez and seconded by Commissioner Noble.

Commissioner Francis noted that the Respondent had given the Complainant an opportunity for counseling, but Complainant declined.

Hearing no further discussion, Chair Francis requested roll be called.

Voting Aye: Commissioners Crump, Noble, Quintero, Rodriguez and Francis.
Motion for a finding of **No Reasonable Cause** carried 5-0.

6. LCHR No.: 09-1204-011-H

A motion for a finding of No Reasonable Cause was made by Commissioner Crump and seconded by Commissioner Rodriguez.

Commissioner Rodriguez noted the Complainant had given a 30-day notice giving the specific date of the 31st when he would be out, so the Respondent knew when the Complainant was going to be out. She inquired if there was evidence that the Complainant was not out the by the 31st. Investigator Wortman verified that the 30-day notice was given and that the Complainant provided a U-Haul receipt showing the van was returned the morning of November 1. Investigator Wortman also stated that the Complainant had left items for the Respondent to dispose of and there was no evidence that the Complainant contacted the Respondent to tell him he vacated the unit.

Commissioner Francis asked if the lease had terms as to the condition that the rental was supposed to be left in after vacating. Investigator Wortman confirmed that there was a general statement that beyond reasonable wear and tear, it should be left in the same condition. She added that the Respondent wrote notes on the lease of defects in the property at the time the Complainant moved in.

Commissioner Francis asked if the Respondent had to hire someone to remove any remaining property and if there was a cost. Investigator Wortman replied yes, and added that the Complainant was not charged for the dumpster rental or the labor to remove the items, but was charged for cleaning costs. She also stated that the Respondent produced pictures of the unit and it was quite dirty. She confirmed that other tenants did not get their deposits back because of a similar situation; those tenants were male, the majority being white and one Asian.

Commissioner Nobel asked if there were condition reports which both parties signed. Investigator Wortman indicated there weren't.

Hearing no further discussion Chair Francis requested roll be called.

Voting Aye: Commissioners Noble, Quintero, Rodriguez, Crump and Francis.
Motion for a finding of **No Reasonable Cause** carried 5-0.

7. LCHR No.: 09-1204-012-H

A motion for a finding of No Reasonable Cause was made by Commissioner Rodriguez and seconded by Commissioner Noble.

Commissioner Francis noted there were ongoing issues with the Complainant for noise, theft of electricity and late rents. The court did find the Respondent had given the Complainant time to move out, but Complainant did not. Hearing no further discussion, Chair Francis requested roll be called.

Voting Aye: Commissioners Quintero, Rodriguez, Crump, Noble and Francis
Motion for a finding of **No Reasonable Cause** carried 5-0.

ADMINISTRATIVE CLOSURES

A. NOTICE OF RIGHT TO SUE

8. LCHR No.: 09-0219-007-E-R

A motion to accept the Administrative Closure/Notice of Right to Sue was made by Commissioner Crump and seconded by Commissioner Noble.

Hearing no discussion, Chair Francis requested roll be called.

Voting Aye: Commissioners Rodriguez, Crump, Noble, Quintero and Francis.

Motion to approve the **Administrative Closure** carried 5-0.

B. LACK OF JURISDICTION

9. LCHR No.: 09-0827-044-E-R

A motion to accept the Administrative Closure for Lack of Jurisdiction was made by Commissioner Noble and seconded by Commissioner Francis.

Hearing no discussion, Chair Francis requested roll be called.

Voting Aye: Commissioners Crump, Noble, Quintero, Rodriguez and Francis

Motion to accept the **Administrative Closure** carried 5-0.

C. WITHDRAWAL

10. LCHR No.: 09-1005-051-E

A motion to accept the Administrative Closure based on a Withdrawal was made by Commissioner Noble and seconded by Commissioner Crump.

Hearing no discussion, roll call was requested.

Voting Aye: Commissioners Noble Quintero, Rodriguez and Crump.

Abstain: Commissioner Francis.

Motion to accept the **Administrative Closure** carried 4-0-1.

OLD BUSINESS

Director Williams updated the Commissioners on new appointments. Mary Reece, Takako Olson and Anitra Warrior's appointments were scheduled for final approval at the March 1, 2010 City Council meeting. New Commissioners will attend the next Commission meeting on March 25th where they will be sworn in. They will sit at the dais, vote present, but abstain from voting on any current cases before the Commission. Training will take place before the May 13, 2010 Commission meeting. (No meeting in April.)

NEW BUSINESS (None)

PUBLIC COMMENTS (None)

ADJOURNMENT Meeting adjourned at 4:45 p.m.

NEXT MEETING

The next meeting is scheduled for **4 p.m, Thursday, March 25, 2010** in the Council Chambers.