

**CITY OF LINCOLN, NEBRASKA**  
**COMMISSION ON HUMAN RIGHTS MINUTES**  
December 12, 2013  
CITY COUNCIL CHAMBERS, 555 S. 10<sup>TH</sup> STREET

The December 12, 2013, meeting of the Commission on Human Rights was called to order at 4:00 p.m. by Gene Crump, Chair.

**ROLL CALL:**

The roll call was called and documented as follows:

**MEMBERS PRESENT:**

Commissioners: Gene Crump (Chair), Sue Oldfield, Takako Olson, Mary Reece, Bennie Shobe, and Micheal Thompson. Quorum present.

**MEMBERS ABSENT:**

Hazell Rodriguez and Liz King.

**STAFF PRESENT:**

Kimberley Taylor-Riley, Angela Lemke, Margie Nichols, Loren Roberts, and Peg Dillon.

**APPROVAL OF OCTOBER 31, 2013 MINUTES:**

A motion was made by Shobe and seconded by Thompson to approve the minutes of the October 31, 2013 meeting. Crump asked for the roll call. Voting "aye" was: Oldfield, Shobe, Thompson and Crump. Abstaining was Olson and Reece. Motion carried.

**APPROVAL OF DECEMBER 12, 2013, AGENDA:**

The agenda was amended to withdraw LCHR No.: 13-1031-012-H and LCHR No.: 13-1105-013-H. A motion was made by Thompson and seconded by Olson to approve the amended meeting agenda. Crump asked for the roll call. Voting "aye" was: Oldfield, Olson, Reece, Shobe, Thompson and Crump. Motion carried.

**CASE DISPOSITIONS:**

**LCHR #13-0415-009-E-R**

A motion was made by Olson and seconded by Reece to recommend a finding of **No Reasonable Cause** on all issues.

Shobe said that there seemed to be inappropriate behavior by a co-worker and his supervisor but no evidence that it was protected class discrimination. Lemke said evidence showed that a co-worker harassed the Complainant and the supervisor didn't behave in an appropriate manner but the Complainant did refuse to do as asked by the supervisor. Shobe asked for clarification about the number of no call and no shows and yet no one else was let go. Lemke replied that technically a no call, no show means the employee is terminated and it is sometimes not clear if the employee had quit or was terminated.

Olson asked about the 2 year performance evaluation and asked if Lemke looked at other evaluations. Lemke said she did look at one other employee and looked to see if the coworker that clashed with the Complainant had problems with getting along with others. There was documentation that this employee had past problems with other co-workers.

Thompson asked for clarification about one report that said the Complainant was easy to get along with and is honest and yet there was an incident where he did display anger, was this new behavior? Lemke said that the supervisor thought the Complainant's attitude had changed, a coworker did on one occasion drop a box on the Complainant's foot and the Complainant admitted that he and the co-worker were both screaming and he was going to punch the coworker. Lemke said this showed a change in his attitude but she wasn't sure why. Thompson asked for clarification on an issue with the Complainant's customer service when evaluated by a secret shopper. Lemke said there might have been some confusion, according to the Complainant he was not talking to a coworker and ignoring the shopper, but was talking with another customer.

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

**LCHR #13-0425-013-E-R**

A motion was made by Oldfield and seconded by Thompson to recommend a finding of **No Reasonable Cause** on all issues.

Shobe asked Nichols to explain the Cat's paw theory of discrimination. Nichols replied that it is when someone has singular influence over another. In this case the store manager has influence over the service manager which, if proven, could result in discrimination when the service manager terminated the Complainant without cause.

Commissioners asked why he was employed for so long when it was clear he did not have the correct skill set for the job. Nichols replied that it was apparent from the beginning that the Complainant wasn't qualified. The Respondent tried to give him the benefit of the doubt and was letting the Complainant try other projects after failing to do the job properly, but when the employer received a complaint from a co-worker that he could not get his work done because he spent all of his time helping the Complainant, this prompted the Respondent to terminate employment with the

Complainant. Thompson questioned the issue of the Complainant not having the proper tools for the job, but Nichols said that the tools requirement was not in the job description.

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

**LCHR #13-0701-019-E-R**

A motion was made by Crump and seconded by Shobe to recommend a finding of **No Reasonable Cause** on all issues.

Shobe wondered if the Complainant was really having trouble interacting or if it is just a label for not being like the rest of us. Nichols replied that it was more to do with interaction with the public not with co-workers. Nichols said the Respondent did require them to work a certain way with the public. Shobe asked if the Complainant was kept from being promoted because of this issue. Nichols replied that she had asked the Respondent why the Complainant had not been promoted and they said his skill set was not there yet. Shobe asked if the transfer was due to retaliation. Nichols said the Complainant agreed that the transfer was beneficial to him. His new supervisor was supposed to help him improve his customer service skills.

Thompson asked about the forester and his issues with the Company. Nichols clarified that the Respondent agreed that there was reason to believe that the forester had a bad attitude because of prior issues with his son's employment with the Respondent and he had tried to hurt the Company and make them lose their contract. Nichols said the Company's attorney investigated the forester and found no reason to not return him to his position.

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

**LCHR #13-1004-011-H**

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

Thompson asked if there was something in writing that stated that there were no animals allowed in the building. Lemke said no there was not. It was up to the Respondent to decide if a tenant could have a dog if they asked for a dog due to a reasonable accommodation. Thompson asked for clarification about another tenant being allowed to have a dog, while the Complainant was told she could not have the dogs. Lemke clarified that around the end of August the Complainant had a conversation with the Respondent and had asked to get a dog for her safety. The Respondent initially said yes and later when he saw that the Complainant had two large dogs in the apartment he decided that she could not have the dogs. Within a couple of weeks following this incident the Complainant failed to pay September rent and was evicted on a 3 day notice. After this eviction

another tenant was allowed to have a dog. The Complainant never did get a doctor's note to allow her to have a dog for medical reasons.

Thompson asked about the term 'restored'. Lemke clarified that after being evicted the apartment is restored back to the landlord by the judge. Thompson asked about someone else paying rent for the Complainant and Lemke said the Respondent denied it. Lemke asked the Complainant for proof of the disability and it was never supplied. It was not clear why the friend didn't pay the rent and instead called the Respondent to discuss the eviction.

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

**PRE-DETERMINATION SETTLEMENT AGREEMENTS:**

**LCHR #13-0418-001-PA**

A motion was made by Thompson and seconded by Olson to accept the settlement agreement as presented. Hearing no discussion, Crump asked for the roll call. Voting "aye" was: Oldfield, Olson, Reece, Shobe, Thompson and Crump. Motion carried.

**SUCCESSFUL CONCILIATION:**

**LCHR #13-0304-006-E**

A motion was made by Reece and seconded by Thompson to accept the agreement as presented. Hearing no discussion, Crump asked for the roll call. Voting "aye" was: Oldfield, Olson, Reece, Shobe, Thompson and Crump. Motion carried.

**ADMINISTRATIVE CLOSURES:**

**LCHR #12-1221-065-E-R**

A motion was made by Oldfield and seconded by Reece to accept the Administrative Closure of Withdrawal with Settlement as presented. Hearing no discussion, Crump asked for the roll call. Voting "aye" was: Oldfield, Olson, Reece, Shobe, Thompson and Crump. Motion carried.

**LCHR #13-1002-033-E**

A motion was made by Thompson and seconded by Crump to accept the Administrative Closure of Failure to Identify Respondent as presented. Hearing no discussion, Crump asked for the roll call. Voting "aye" was: Oldfield, Olson, Reece, Shobe, Thompson and Crump. Motion carried.

**OLD BUSINESS:**

There was no old business presented.

**NEW BUSINESS:**

Taylor-Riley announced that Commissioner Crump and Commissioner Rodriguez had both fulfilled two full terms and will be done on the Commission as of December 2013.

The Commission members elected new officers. A motion was made by Olson and seconded by Reece to nominate Commissioner Shobe for Chair of the Lincoln Commission on Human Rights calendar year 2014. Hearing no other nominations, Crump asked for the roll call. Voting "aye" was: Oldfield, Olson, Reece, Shobe, Thompson and Crump. Motion carried.

A motion was made by Olson and seconded by Thompson to nominate Commissioner Reece for Vice-Chair of the Lincoln Commission on Human Rights for calendar year 2014. Hearing no other nominations, Crump asked for the roll call. Voting "aye" was: Oldfield, Olson, Reece, Shobe, Thompson and Crump. Motion carried.

The Commissioners thanked the investigators and staff for all their hard work to investigate and present the cases each month. A perfect attendance award was presented to Commissioner Shobe for attending all of the 2013 Commission meetings.

Roberts thanked all the Commissioners for their hard work and volunteer time they offer to the commission and the community. She reminded everyone to try to attend the MLK Breakfast, January 17<sup>th</sup>, at Embassy Suites, beginning at 7:30 a.m.

**Next Meeting:**

The next meeting will be Thursday, January 30, 2014, at 4:00 p.m. in the City Council Chambers at the County City Building at 555 S. 10<sup>th</sup> Street.

The meeting was adjourned at 4:47p.m.