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PENNSYLVANIA HUMAN RELATIONS COMMISSION

M I N U T E S

TIME: 3:11 P.M.

Held at
Honors Suite
333 Market Street
Harrisburg, PA 17101

January 22, 2024

Pennsylvania Human Relations Commission
January 22, 2024

COMMISSIONERS:

Joel Bolstein, Esquire, Chair
Dr. Raquel O. Yiengst, Vice Chair
Mayur Patel, Esquire, Secretary
Dr. Rad Agrawal - (Via telephone)
Michael Hardiman, Esquire
Curtis Jones - Absent
Aleena Sorathia - Absent

EXECUTIVE DIRECTOR

Chad Dion Lassiter, MSW

CHIEF COUNSEL

Meredith Millard, Esquire

COMMISSION COUNSEL

Vacant

STAFF PRESENT:

Amanda Brothman, Director of Communications
Desiree Chang, Director of Education
Lauren Daman, Director of Human Resources
Darlene Hemerka, Esquire, Hearing Examiner
La Dawn Robinson, Regional Office Director, Pittsburgh
Zulay Rojas, Special Assistant to Executive Director
Heather Roth, Regional Office Director, Harrisburg
Ashley Walkowiak, Director of Policy,
Intergovernmental Affairs and Mediation
Debbie Walters, Administrative Officer

GUESTS PRESENT:

Robert Taylor, Assistant Chief Counsel

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Pennsylvania Human Relations Commission

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January 22, 2024

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MEETING CALL TO ORDER AND OPENING STATEMENT

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[Joel Bolstein, Esquire, Chair, called the meeting to

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order at 3:10 p.m. He welcomed all to the public

9

meeting of the Pennsylvania Human Relations

10

Commission.

11

Pursuant to Section 711 (a) of the Sunshine Act,

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65 P.S. § 711(a), this Commission meeting may be

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recorded by attendees. Voluntary participation in

14

the meeting constituted consent to be recorded. The

15

meeting was advertised in accordance with the

16

provisions of the Sunshine Act. Prior to the meeting

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and in keeping with the confidentiality requirements

18

of the Sunshine Act, there had been a closed session

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by the Commission to discuss compliance matters,

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management updates, and adjudicative case

21

deliberations.

22

After concluding with the business portion of the

1 COMMISSIONER YIENGST:

2 So moved.

3 CHAIR BOLSTEIN:

4 Is there a second?

5 COMMISSIONER AGRAWAL:

6 Second.

7 CHAIR BOLSTEIN:

8 It's been moved and seconded. All in
9 favor of adopting the agenda, please say
10 aye. Any opposed?

11 [The motion carried unanimously.]

12 ***

13 APPROVAL OF PUBLIC MEETING MINUTES

14 CHAIR BOLSTEIN:

15 We have to approve the public meeting
16 minutes from the November 27, 2023
17 meeting.

18 Is there a motion to approve the
19 minutes?

20 COMMISSIONER YIENGST:

21 So moved.

22

1 CHAIR BOLSTEIN:

2 Is there a second?

3 COMMISSIONER HARDIMAN:

4 Second.

5 CHAIR BOLSTEIN:

6 It's been moved and seconded. Are there
7 any comment on the public meeting
8 minutes?

9 Not hearing any, all in favor of
10 approving the minutes please say aye?

11 [The motion carried unanimously.]

12 ***

13 ADJUDICATIONS - RECOMMENDATIONS AND PROPOSED FINAL
14 ORDERS

15 [Chair Bolstein noted two Adjudications with
16 Recommendations and Proposed Findings of Fact and
17 Conclusions of Law and Final Orders.

18 The first one, April Crenney vs. 1400 Main
19 Holdings, LLC, AJH Management Company, Shay Carelly,
20 Case No. 202101192.

21 RECOMMENDATION

22 [Hearing Examiner Darlene Hemerka noted the

1 allegations were twofold in this case. Ms. Crenney
2 alleged that she was discriminated against by
3 Respondents on the basis of her disability in two
4 ways, first by the Respondents, the landlords in this
5 matter, refusing to modify their parking policy.
6 Secondly by refusing to allow Ms. Crenney to modify
7 her apartment dwelling to permit her to install a
8 permanent grab bar within the shower.

9 There was a public hearing on this matter in
10 October of 2023. Based on the testimony and the
11 exhibits submitted, Hearing Examiner Hemerka
12 recommended that the Commission find that Ms. Crenney
13 did not establish a violation under a reasonable
14 accommodation request but did establish a violation
15 with regard to the reasonable modification request
16 regarding the permanent bars in the shower.

17 Based on those findings, Hearing Examiner Hemerka
18 recommended that the Commission order that the
19 Respondents cease and desist from discriminating
20 against tenants who request modifications. And that
21 the Respondents pay Ms. Crenney the amount of \$60,000
22 for emotional distress damages along with \$7,000 in a

1 Civil Penalty.]

2 CHAIR BOLSTEIN:

3 The Commission is now scheduled to vote
4 on the disposition of the complaint for
5 which a public hearing has been held.

6 In such cases, the Pennsylvania
7 Humans Relations Act requires the
8 Commission to review the Recommended
9 Findings, Conclusions and Order made by
10 the permanent Hearing Examiner or
11 hearing panel and to approve or reverse
12 the Findings, Conclusions and Order
13 before service of such Order on the
14 parties to the complaint.

15 Each Commissioner voting today
16 signifies by his or her vote that he or
17 she has reviewed the entire record in
18 these matters to determine whether the
19 recommended Findings are supported by
20 substantial evidence.

21 Furthermore, because it is for the
22 Commission as the adjudicative body to

1 determine whether the Respondent has
2 engaged in or is engaging in an unlawful
3 discriminatory practice as defined by
4 the Pennsylvania Human Relations Act,
5 any Findings, Conclusions and Order
6 approved today are so approved only
7 after the Commission itself has
8 determined that the evidence upon which
9 it is based has been resolved correctly.
10 And that any credibility determinations
11 have been decided correctly.

12 Is there a motion to adopt the
13 Recommendations and Proposed Order in
14 the April Crenney case?

15 COMMISSIONER YIENGST:

16 I move that we approve the
17 recommendation of the Hearing Examiner.

18 CHAIR BOLSTEIN:

19 Is there a second?

20 COMMISSIONER HARDIMAN:

21 Second.

22 CHAIR BOLSTEIN:

1 It's been moved and seconded. Is there
2 any discussion?

3 Not hearing any, all those in favor
4 of adopting the Proposed Findings of
5 Fact, Conclusions of Law and Final Order
6 in the April Crenney case, Case No.
7 202101192, please say aye?

8 [Commissioner Agrawal requested to hear what the
9 Hearing Examiner said as he was not sure of her
10 Conclusion. Commissioner Agrawal was not convinced
11 there was any discrimination or anything wrong with
12 what happened and that the amount of money requested
13 is proper.

14 Hearing Examiner Hemerka reiterated her
15 Conclusion regarding the damages amount. She
16 explained her consideration of the factors that the
17 Commission had used in the *Cole* case decided earlier
18 in 2023. Those factors is how she arrived at the
19 amount.

20 Specifically, she found Ms. Crenney extremely
21 credible in her testimony about how this has impacted
22 her life, both in her personal relationship with her

1 husband but then also her embarrassment as far as
2 going out to see her family who lived on the other
3 side of the building. Because of her inability to
4 shower she would say that she was sick during family
5 functions.

6 Another important matter in this case was that
7 there was a second witness, her husband, who also
8 spoke about how this was a difficult situation for
9 him to watch Ms. Crenney struggle with depression,
10 that she began sleeping 20 hours a day, and just his
11 corroboration that it impacted their personal
12 intimate relationship was really impactful testimony.

13 The last matter being that it had been quite a
14 significant period of time that passed from when Ms.
15 Crenney filed the complaint until when the hearing
16 was and she was still unable to shower without her
17 husband being home because she was so afraid.]

18 CHAIR BOLSTEIN:

19 So far, it's been moved by Commissioner
20 Yiengst, seconded by Commissioner
21 Hardiman and now we're putting it up for
22 a vote.

1 [Hearing Examiner Darlene Hemerka explained this case
2 involved an allegation of employment discrimination.
3 The Respondent in this matter, Newco Resources, LLC,
4 never filed an Answer to the Complaint. The
5 Commission ultimately issued a liability order so the
6 only issue at hearing was what damages, if any, the
7 complainant could establish.

8 A hearing was held in October of 2023 with regard
9 to the damages. Mr. Foster testified and
10 specifically requested back pay, front pay, and also
11 out-of-pocket expenses. With regard to the back pay,
12 the evidence showed that Mr. Foster was initially
13 making \$850 per week, but then if he had made it to
14 90 days the salary, he would increase to \$1,250 per
15 week. Based on the evidence, he was let go about two
16 weeks prior to his 90 days. When calculating the
17 damages for back pay, Hearing Examiner Hemerka used
18 the \$850 for two weeks and then the \$1,250 going
19 forward through the public hearing. The approximate
20 amount for back pay was \$110,450.

21 The complainant also requested front pay, which
22 is not a remedy that is given that often in

1 employment cases but can be awarded where the
2 complainant finds no comparable employment. In this
3 matter, Mr. Foster had not found any comparable
4 employment. He testified that one of the reasons he
5 did not find the comparable employment was due to
6 negative references from Newco Resources to potential
7 employers.

8 Based on the testimony, Hearing Examiner Hemerka
9 recommended that the Commission award him front pay
10 in the amount of approximately \$41,000.

11 Finally, Hearing Examiner Hemerka stated the
12 testimony established that Mr. Foster was unable to
13 keep his home and was forced to put his belongings in
14 storage. He provided evidence regarding the storage
15 amounts and the U-Haul amounts for moving. So his
16 out-of-pocket expenses were calculated at
17 approximately \$3,000.

18 Given all of that, Hearing Examiner Hemerka
19 recommended that the Commission find in Mr. Foster's
20 favor.]

21 CHAIR BOLSTEIN:

22 Is there a motion to approve the

1 Proposed Findings of Fact, Conclusions
2 of Law, Final Order in the Timothy
3 Foster vs. Newco Resources, LLC?

4 COMMISSIONER YIENGST:

5 I move that we accept the recommendation
6 of the Hearing Examiner.

7 COMMISSIONER HARDIMAN:

8 Second.

9 CHAIR BOLSTEIN:

10 Is there any discussion?

11 All those in favor of approving the
12 Proposed Findings of Fact, Conclusions
13 of Law and Final Order please say aye.

14 ALL RESPOND AYE

15 CHAIR BOLSTEIN:

16 Any opposed? So it's 5/0.

17 [The motion carried unanimously.]

18 ***

19 CONCILIATION AGREEMENTS/CONSENT ORDERS

20 CHAIR BOLSTEIN:

21 We have two Conciliation Agreements or
22 Consent Orders, noted as Item Nos. 5 and

1 6 on the agenda.

2 Is there a motion to approve those
3 Conciliation Agreements or Consent
4 Orders?

5 COMMISSIONER YIENGST:

6 So moved.

7 COMMISSIONER AGRAWAL:

8 Second.

9 CHAIR BOLSTEIN:

10 It's been moved and seconded. Is there
11 any discussion? Not hearing any, all
12 those in favor of approving the
13 Conciliation Agreements or Consent
14 Orders shown as Item Nos. 5 and 6 on the
15 agenda please say aye.

16 ALL RESPOND AYE

17 [The motion carried unanimously].

18 ***

19 REQUESTS FOR PRELIMINARY HEARINGS

20 CHAIR BOLSTEIN:

21 We have 41 requests for Preliminary
22 Hearing.

1 We will need a motion to accept the
2 Recommendation and deny the Requests for
3 Preliminary Hearing. But I have two
4 that I have to recuse myself from which
5 are Item No. 11 and Item No. 27, so they
6 will be pulled out from the first vote,
7 that 39 of the 41 Requests for
8 Preliminary Hearings will be voted on
9 first.

10 Is there a motion?

11 COMMISSIONER YIENGST:

12 I make a motion to accept the
13 Recommendation and deny the Request for
14 Preliminary Hearings with the exception
15 of Item No. 11 and No. 27.

16 CHAIR BOLSTEIN:

17 Is there a second?

18 COMMISSIONER HARDIMAN:

19 Second.

20 CHAIR BOLSTEIN:

21 It's been moved and seconded.

22 All those in favor of the motion to

1 deny the Request for Preliminary
2 Hearings for Item Nos. 7 through 47 with
3 the exception of Item Nos. 11 and 27,
4 please say aye.

5 AYES RESPOND

6 CHAIR BOLSTEIN:

7 Any opposed?

8 NO RESPONSE

9 [The motion carried unanimously]

10 ***

11 CHAIR BOLSTEIN:

12 I need somebody to make a motion for
13 Item Nos. 11 and 27.

14 COMMISSIONER HARDIMAN:

15 I move we accept the Recommendation for
16 Nos. 11 and 27.

17 CHAIR BOLSTEIN:

18 And a second?

19 COMMISSIONER YIENGST:

20 Second.

21 CHAIR BOLSTEIN:

22 So it's been moved and seconded.

1 All those in favor of denying the
2 Requests for Preliminary hearing in
3 those two matters please say aye.

4 AYES RESPOND

5 [The motion carried 4/0. Chair Bolstein recused from
6 deliberations and voting on Item Nos. 11 and 27.

7 ***

8 [Chair Bolstein indicated the remaining items,
9 Motions and Other Actions, Approved for Public
10 Hearing Docket, Pennsylvania Legislative Update,
11 Management Reports, Old Business, New Business on the
12 agenda did not require a vote.]

13 ***

14 ADJOURNMENT

15 CHAIR BOLSTEIN:

16 I'm going to ask for a motion to
17 adjourn?

18 COMMISSIONER YIENGST:

19 I make a motion that we adjourn.

20 COMMISSIONER AGRAWAL:

21 Second.

22 CHAIR BOLSTEIN:

1 All in favor of approving the motion to
2 adjourn please say aye.

3 ALL RESPOND AYE

4 CHAIR BOLSTEIN:

5 Any opposed?

6 NO RESPONSE

7 [The motion carried unanimously.]

8 ***

9 CHAIR BOLSTEIN:

10 Are there any members of the public who
11 wish to provide public comment?

12 ***

13 PUBLIC COMMENT

14 None

15 ***

16 CHAIR BOLSTEIN:

17 Not hearing any, then we will see
18 everybody at the February 26, 2024
19 monthly meeting.

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21 ***

22 [The meeting adjourned at 3:31 p.m.]

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[The next meeting is scheduled for February 26,
2024.]

CERTIFICATE

I hereby certify that the foregoing summary minutes of the Pennsylvania Human Relations Commission, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the Pennsylvania Human Relations Commission meeting.



Derek Richmond,
Minute Clerk
Sargent's Court Reporting
Service, Inc.



M. Joel Bolstein, Chairman



o/b/o Commissioner Mayur Patel
Mayur Patel, Secretary