

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

DUNLAP H. WINGO, :
Complainant :
vs. : Docket No. E-4748
COMMONWEALTH OF PENNSYLVANIA :
DEPARTMENT OF LABOR AND INDUSTRY :
BUREAU OF EMPLOYMENT SECURITY, :
Respondent :
:

FINDINGS OF FACT, CONCLUSIONS OF LAW,
COMMISSION'S DECISION AND FINAL ORDER

FINDINGS OF FACT

1. The Complainant herein is Dunlap H. Wingo, R.D. No. 2, Box 199 E. Telegraph Road, Coatesville, Pennsylvania. Race, Black.
2. The Respondent herein is the Commonwealth of Pennsylvania, Department of Labor and Industry, Bureau of Employment Security, Harrisburg, Pennsylvania, Coatesville branch office.
3. On or about April 19, 1971, the Complainant was hired as a provisional Unemployment Claims Interviewer and assigned to the Respondent's branch office in Coatesville, Pennsylvania.
4. At all times pertinent hereto the director of the Coatesville Pennsylvania office was Walter C. Heck, and the immediate supervisor of all employees was Edmund F. McGarvey. Both are of the caucasian race.

5. As with any provisional unemployment claims interviewer, the Complainant was to remain in a provisional status until such time as he passed the Commonwealth's Civil Service Examination. If after passing said examination an employee's on the job performance is satisfactory, said employee is eligible for reclassification to probationary status. Finally, if after remaining in a probationary status for a period of nine months the employee's work remains satisfactory the employee is then eligible for reclassification to the status of permanent unemployment claims interviewer.
6. Although the Complainant took the above-mentioned examination on or about October 30, 1971 and was notified on or about January 12, 1972 that he had passed said examination he had been advised long before taking the examination that his work was unsatisfactory and had to improve regardless of the results of his examination.
7. At all times pertinent hereto there were Black clerical persons and Black temporary claims interviewers employed at the Coatesville office although the Complainant was the only Black interviewer seeking permanent status. The Black employees other than Complainant all performed satisfactorily and none were dismissed.
8. The Complainant reacted poorly to criticism by fellow employees, even when the criticism came from the Black temporary claims interviewers.
9. In comparison to the other employees in the Coatesville office

the Complainant made a disproportionate number of administrative errors in the course of performing his daily duties. These errors included numerous spelling mistakes, incorrect entries and improper processing of files or cards.

10. Although the Complainant's job description included working at all service lines in the office (UCC Lines 1, 2, 3, and 45), his inability to satisfactorily perform the duties associated with Line 1 prevented his assignment to any of the other service lines.
11. The Complainant's performance showed no significant improvement by January, 1972. The quality, quantity and neatness of his work remained unsatisfactory. His race had no effect on the assessment of his work by his supervisor and fellow employees. Neither did it create an atmosphere in the office which was not conducive to success by him or acceptance of him as an employee.
12. On or about January 28, 1972 Edmund F. McGarvey submitted a Performance Evaluation Report which recommended the Complainant's dismissal. Said report indicated that after nine months on the job the Complainant could understand only simple instructions and could handle only one problem at a time.
13. The above-mentioned recommendation was accepted by Walter C. Heck and approved by the Respondent's main office in Harrisburg, Pennsylvania. Complainant's last day of work for the Respondent was March 22, 1973.

14. For purposes of the public hearing held in Coatesville, Pennsylvania on June 11, 1973, the parties agreed and stipulated for the Record that the requirement of three hearing Commissioners as a quorum for the conduct of such hearings be waived.

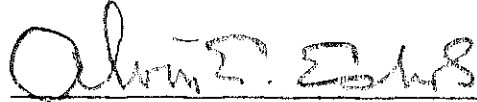
CONCLUSIONS OF LAW

Upon all the evidence presented at the Public Hearing of this matter on June 11, 1973, in Coatesville, Pennsylvania, and in consideration of the foregoing Findings of Fact adduced therefrom, the Pennsylvania Human Relations Commission makes the following Conclusions of Law:

1. The Pennsylvania Human Relations Commission has jurisdiction over the parties and subject matter of this dispute.
2. The claim of Dunlap H. Wingo, the Complainant, that he was harrassed by employees in the Coatesville office of the Respondent and terminated from his employment because of his race, Black, is not sustained by the evidence.
3. The Respondent did not commit an unlawful discriminatory practice in separating the Complainant from his employment and therefore did not violate section 5(a) of the Pennsylvania Human Relations Act.

RECOMMENDATION OF HEARING COMMISSIONER

AND NOW, this 26th day of November , 1973, upon consideration of all the evidence presented at the hearing in the above matter, the Findings of Fact, and Conclusions of Law, the Hearing Commissioner recommends to the entire Commission that an order should be issued dismissing the complainant's complaint.



Alvin E. Echols, Esq.
Hearing Commissioner

COMMISSION'S DECISION

AND NOW, this 26th day of November , 1973, upon the recommendation of the Hearing Commissioner, and upon all the evidence presented at the Public Hearing of the above matter, and in consideration of the foregoing Findings of Fact and Conclusions of Law, the Pennsylvania Human Relations Commission finds and determines that the Respondent, Commonwealth of Pennsylvania, Department of Labor and Industry, Bureau of Employment Security at Coatesville, Pennsylvania, did not commit an unlawful discriminatory act in violation of Section 5(h) of the Pennsylvania Human Relations Act, 43 P.S. § 951, et seq. in terminating the employment of the Complainant, Dunlap H. Wingo.

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GOVERNOR'S OFFICE
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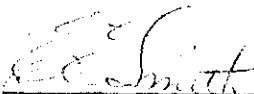
FINAL ORDER

AND NOW, this 5th day of December, 1973, upon consideration of the foregoing Findings of Fact, Conclusions of Law, and Commission's Decision, and pursuant to section 9 of the Pennsylvania Human Relations Act, it is hereby

ORDERED:

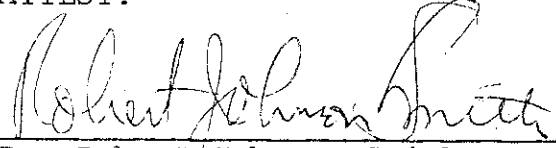
That the Complaint herein filed by Dunlap H. Wingo be, and the same is hereby dismissed.

PENNSYLVANIA HUMAN RELATIONS COMMISSION



E. E. Smith, Chairman

ATTEST:



Dr. Robert Johnson Smith
Secretary