

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION


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| G.D., | : |
| | : |
| Complainant | : |
| | : |
| v. | : PHRC Case No: 200705453 |
| | : |
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| CANAL SIDE CARE MANOR, LLC, d/b/a | : HUD Case No: 03-08-0334-8 |
| CANAL SIDE CARE MANOR and | : |
| LAKSHMI KADEMANI, | : |
| | : |
| Respondents. | : |

JOINT STIPULATION OF FACTS

Complainant G.D., and Respondents, Lakshmi Kademani and Canal Side Care Manor, LLC, hereby stipulate that the following facts are true and correct and no proof thereof shall be required.

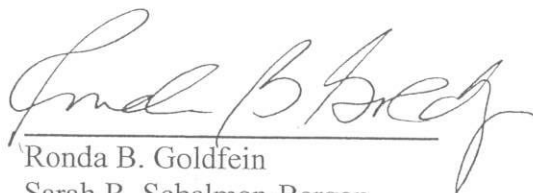
1. The Complainant herein is [REDACTED] hereinafter "Complainant"). On September 18, 2009, at the Prehearing Conference, the Parties stipulated that Complainant would be referred to as G.D. in the caption of this Complaint.
2. The Respondents herein are Lakshmi Kademani (hereinafter "Respondent Owner") and Canal Side Care Manor, LLC, d/b/a Canal Side Care Manor (hereinafter "Respondent Company").
3. Respondent Owner, at all times relevant to the case at hand, was the owner and administrator of Respondent Company.
4. On or about April 21, 2008, Complainant timely filed a verified complaint against Respondent Owner and Respondent Company, at docket no. 200705453, with the Pennsylvania Human Relations Commission (hereinafter Commission). A copy of the Complaint will be included as a docket entry at the time of hearing.
5. Respondent Owner and Respondent Company, on July 1, 2008, answered the Complaint. A copy of the Answer will be included as a docket entry at the time of hearing.

6. In correspondence dated January 26, 2009, Commission staff notified the Complainant and Respondents that probable cause existed to credit the allegations found in the complaint.
8. Conciliation has been attempted but so far the conciliation efforts have failed to resolve the matter.
9. In correspondence dated August 4, 2009, Commission staff notified the Complainant and Respondents that a public hearing had been approved.
10. On September 18, 2009, during the Prehearing Conference, the Parties stipulated that HIV is a qualifying disability under the PHRA.
11. On December 17, 2009, Complainant filed a First Amended Complaint against Respondents. A copy of the First Amended Complaint will be included as a docket entry at the time of the hearing.
12. On January 5, 2010, Respondents answered the First Amended Complaint. A copy of the Answer to the First Amended Complaint will be included as a docket entry at the time of the hearing.



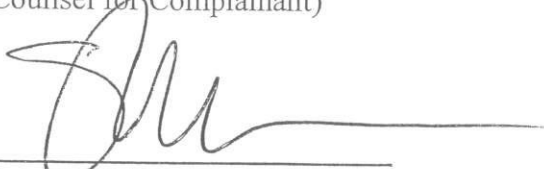
Stephanie M. Chapman
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(Counsel for the Commission
in support of the complaint)

4/8/10
Date



Ronda B. Goldfein
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4/8/10
Date



Stuart T. O'Neal
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McCumber Daniels
(Counsel for Respondents)

4/8/2010
Date

FINDINGS OF FACT*

1. To maintain and preserve confidentiality, the Complainant in this case shall be referred to as G.D. (hereinafter “G.D.”). (S.F.1).
2. G.D. is a 36 year old female individual who has been living with HIV since being diagnosed in 1998. (N.T. Vol 1 at 118-24; R.E. 7 at 53; RE 10 at 420).
3. The Respondents are Canal Side Manor, LLC d/b/a Canal Side Manor, (hereinafter “Canal Side”), and Lakshmi Kademani, (hereinafter “Kademani”). (S.F. 2).
4. G.D. is the mother of three children ages 16, 14, and 12. (N.T. Vol 1 at 141).
5. In 2006, G.D. was living in New Jersey and was embroiled in custody issues with respect to her children. (N.T. Vol 1 at 69; R.E. 10 at 10).
6. At the time, G.D.’s sister, Queen D., lived in Easton, Pa, with her husband and her four children. (R.E. 10 at 8).
7. G.D. has three sisters and three brothers. (R.E. 10 at 8).

* The foregoing “Stipulations of Facts” are hereby incorporated herein as if fully set forth. To the extent that the Opinion which follows recites facts in addition to those here listed, such facts shall be considered to be additional Findings of Facts. The following abbreviations will be utilized throughout these Findings of Fact for reference purposes:

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| N. T. Vol 1 | Notes of Testimony, April 8 th , 2010 |
| N. T. Vol 2 | Notes of Testimony, April 9 th , 2010 |
| C. E. | Complainant’s Exhibit |
| R. E. | Respondents’ Exhibit |
| S. F. | Joint Stipulation of Facts |

8. In May 2006, Queen D. visited G.D. in New Jersey for three days and discovered that G.D. was experiencing problems and struggling. (N.T. Vol 1 at 69, 70, 89).
9. Queen D. called her husband to discuss bringing G.D. and her children back to Easton to live with her. (N.T. Vol 1 at 70).
10. In or about May 2006, Queen D. brought G.D. and her children to live with her in Easton. (N.T. Vol 1 at 69; R.E. 10 at 24).
11. Subsequently, Queen D. became G.D.'s Power of Attorney and Health Care Proxy. (N.T. Vol 1 at 86, 88; C.E. 3; R.E. 10 at 9).
12. In addition to living with HIV, G.D. is also bipolar and schizophrenic. (N.T. Vol 1 at 88, 89).
13. Beginning in July 2006, G.D. received treatment at Easton Community Hospital and was a patient of Jamie Bloss, (hereinafter "Bloss"), a care coordinator, nurse practitioner. (N.T. Vol 1 at 163, 164, 166).
14. G.D. also received outpatient care at Lehigh Valley Mental Health in Bethlehem, Pa. (R.E. 10 at 22).
15. In 2006, for a period of several months while living with Queen D., G.D. did not speak with Queen D. (N.T. Vol 2 at 75; R.E. 10 at 33-34).
16. Initially, G.D. was depressed, experienced nightmares, she was bald, and she was scared and had to wear diapers because G.D. had urinary incontinence. (N.T. Vol 2 at 79; R.E. 10 at 22, 25, 27, 88-89).
17. In 2007, G.D. moved from Queen D.'s home to a group home on Main Street in Bethlehem, Pa. (N.T. Vol 1 at 7; N.T. Vol 2 at 12; R.E. 8 at 24).

18. The group home was interchangeably called Step by Step and Main Street. (N.T. Vol 1 at 235-235; N.T. Vol 2 at 7).
19. Step by Step is a human services agency community residential rehabilitation program principally designed to assist individuals move towards greater independent living. (N.T. Vol 1 at 71, 199, 206).
20. Many Step by Step clients have developmental disabilities or mental illness or both. (N.T. Vol 2 at 7).
21. Step by Step was run by two women, Marie, a staff member, and Tracey, the director of the group home. (N.T. Vol 1 at 94, 207, 208, 234-235; N.T. Vol 2 at 39; R.E. 8 at 56).
22. Some Step by Step clients graduate from the group home setting into more stable independent living situations while others are directed to personal care homes. (N.T. Vol 2 at 12).
23. Assisting Step by Step clients are Intensive Case Managers, (hereinafter "ICM"), who are supervised by Cherie Zettlemyer, (hereinafter "Zettlemyer"). (N.T. Vol 2 at 7-8).
24. ICM's assist clients by accompanying them to doctor's appointments, providing assistance in searching for jobs, and finding transportation and generally rendering assistance. (N.T. Vol 1 at 201).
25. Following G.D.'s October 2007 intake to enter the ICM program, Aurora Valle was assigned to be G.D.'s IMC. (N.T. Vol 1, 200, 231; N.T. Vol 2 at 11).
26. Aurora Valle subsequently married and is now Aurora Anaya, (hereinafter "Anaya"). (N.T. Vol 1 at 283).

27. Anaya is an ICM for Step by Step's young adult program. (N.T. Vol 1 at 200).
28. When Anaya met G.D. in October 2007, G.D. disclosed that she has HIV. (N.T. Vol 1 at 231).
29. Several additional times G.D. disclosed this information to Anaya. (N.T. Vol 1 at 232).
30. Anaya informed G.D. that she did not have to disclose this information. (N.T. Vol 1 at 232).
31. At some point, G.D. developed the virus commonly known as shingles. (N.T. Vol 1 at 156; R.E. 7 at 52-53).
32. Shingles is caused by the virus varicella zoster, aka the chickenpox virus. (N.T. Vol 1 at 44).
33. After an individual has had the chickenpox, the virus lays dormant in the spine's nerve system roots and stays there until the body's immune system tires and the virus breaks out as a blistering rash. (N.T. Vol 1 at 44-46).
34. As long as the blistering shingles are fluid filled, the individual is contagious to those who have never had chickenpox. (N.T. Vol 1 at 46).
35. The period of contagion is generally four to five days. (N.T. Vol 1 at 47).
36. While living at Step by Step's group home, G.D. experienced problems with basic daily living skills, hygiene and urinary incontinence. (N.T. Vol 1 at 206).
37. With respect to G.D.'s urinary incontinence, G.D. was put on both a queuing program and a training program where G.D. would constantly be reminded to go to the bathroom. (N.T. Vol 1 at 71; R.E. 10 at 53, 55).

38. Whether G.D. would be reminded every hour and a half, every hour, or even every half hour, by December 2007, G.D.'s urinary incontinence had not improved. (N.T. Vol 1 at 71; R.E. 10 at 95).
39. While residing at Step by Step, G.D. wore a diaper everyday. (R.E. 10 at 118).
40. Periodically, Step by Step would meet with G.D., Anaya and Queen D. to discuss G.D.'s needs. (N.T. Vol 1 at 72).
41. Periodically, Step by Step also called Queen D. to discuss G.D.'s progress. (N.T. Vol 1 at 92).
42. By November and December 2007, Queen D. was being informed that G.D. has severe bladder incontinence. (N.T. Vol 1 at 92).
43. In a meeting about G.D., Queen D. and Anaya were told both queuing and training had failed and a discussion ensued regarding whether it was time to secure another level of care for G.D. (N.T. Vol 1 at 94, 97, 234-235; R.E. 8 at 56).
44. Collectively, the Step by Step staff, Anaya and Queen D. decided that G.D. needed more care and supervision and that G.D. should be in a personal care home. (N.T. Vol 1 at 71; R.E. 10 at 48-49).
45. G.D. testified that she was annoyed at Step by Step because the staff was on her back about every little thing. (R.E. 7 at 44).
46. G.D. offered that she hated Tracy and wanted to hit her. (R.E. 7 at 45-52).
47. G.D. also indicated that she and Tracy argued about G.D.'s children. (R.E. 7 at 52, 112).
48. G.D. further testified that she also did not like Marie because she believed Marie nagged her. (N.T. 7 at 52, 98).

49. Queen D. and Zettlemyer decided that the reason G.D. had to leave Step by Step's group home was her severe bladder incontinence. (N.T. Vol 2 at 33, 46; R.E. 10 at 53, 55).
50. For several months Step by Step staff member Marie attempted to locate an alternate living arrangement for G.D. (N.T. Vol 1 at 72, 197).
51. One place Marie called was Canal Side, located in Walnutport, Pa. (N.T. Vol 1 at 197, 207; N.T. Vol 2 at 91-92, 129; R.E. 9 at 24).
52. Canal Side is registered by the Commonwealth's Department of Public Welfare as a personal care home and is governed by DPW's regulations. (N.T. Vol 2 at 82, 85).
53. Canal Side specializes in caring for low income individuals suffering from mental illness, and who have no other place to live. (N.T. Vol 2 at 82, 134).
54. Kademani is the sole owner and Administrator of Canal Side. (N.T. Vol 2 at 130; R.E. 9 at 22).
55. Canal Side is a 62 bed facility and its residents are both men and women. (N.T. Vol 1 at 326; N.T. Vol 2 at 105; R.E. 9 at 55; R.E. 11 at 46).
56. Canal Side consists of two buildings: one smaller building housing Canal Side's administrative offices and eight beds and the main building housing the remaining beds, a recreation and TV area, a dining area, bathrooms and a medication room. (N.T. Vol 2 at 104; R.E. 9 at 38, 54, R.E. 11 at 43).
57. Canal Side rooms are either private rooms, semi-private or triple occupancy rooms. (R.E. 9 at 40).

58. The cost of a semi-private or triple room is \$1,133.30 per month and a private room with a bathroom costs up to \$2,000.00 per month. (R.E. 9 at 40, 42).
59. Kademani's assistant administrator is Sandra Dahlia, (hereinafter "Dahlia"). (N.T. Vol 2 at 161, 272; R.E. 11 at 12).
60. Ruth Sillers is Canal Side's supervisor of Canal Side's personal care aids. (N.T. Vol 2 at 191).
61. When Marie first called Canal Side, there were no openings, but after several calls, Canal Side had a female bed opening. (N.T. Vol 2 at 92, 129).
62. Marie informed Anaya that Canal side had an opening and Anaya followed-up with Kademani. (N.T. Vol 1 at 209, 304).
63. Generally, all Marie told Kademani about G.D. is that G.D. has mental health issues. (N.T. Vol 2 at 133).
64. Anaya called Kademani and told her that G.D. was living in a group home but was having problems with her daily living skills and that G.D. needed a higher level of care. (N.T. Vol 1 at 209; R.E. 8 at 82).
65. Anaya informed Kademani that G.D. is bi-polar and only needed minimum assistance in daily living needs. (R.E. 9 at 57).
66. Anaya said nothing about G.D.'s toileting needs or her bladder incontinence. (R.E. 9 at 57).
67. A tour of Canal Side was scheduled for December 11, 2007. (N.T. Vol 1 at 211, 315; N.T. Vol 2 at 93).
68. Anaya called Queen D. to tell her of the room availability at Canal Side and that a tour had been arranged. (N.T. Vol 1 at 22).

69. On December 11, 2207, Anaya picked up G.D. from Step by Step and drove her to Canal Side where Sillers took the two of them on a tour. (N.T. Vol 1 at 211, 315, 337).
70. Anaya and Sillers dispute the interaction between them on the December 11, 2007 tour: Sillers generally offered that during the tour she did not speak with Anaya or even knew who she was, and that she only spoke with G.D. who told her she does everything herself; Anaya testified that she informed Sillers that G.D. needed help with hygiene, personal living skills, wears a diaper and needs constant reminders to go to the bathroom. (N.T. Vol 1 at 212, 218, 234, 315, 338, 339, 354, 357; C.E. 7).
71. After the tour Anaya was given pre-admission screening forms to complete for G.D. as, at that time, Kademani felt that G.D. would fit in with other Canal Side residents and she had no concerns about accepting G.D. (N.T. Vol 2 at 152-153; R.E. 9 at 58-59).
72. Following the tour, Sillers went to Kademani and told her that she had doubts about G.D. and that she had formed the impression that G.D. was homeless and was simply desperate for a place to live. (R.E. 12 at 25-26).
73. Shortly thereafter, Kademani told Anaya that she was not sure G.D. would fit in at Canal Side, but Anaya assured Kademani that Canal Side was appropriate for G.D. and that G.D. was a good person and a nice listener. (N.T. Vol 1 at 209, 210, 265-266, 267, 271-272; C.E. 9; R.E. 8 at 82-85).
74. Anaya also promised Kademani that she would get additional information to Kademani regarding G.D. including a medical evaluation. (N.T. Vol 1 at 265).

75. On December 17, 2007, Anaya, Tracey, Marie and Queen D. met for a treatment team meeting at which time Anaya confirmed that G.D.'s psychiatric evaluation had been faxed from Lehigh Valley Mental Health to Kademani. (C.E. 8).
76. Subsequently Anaya completed Canal Side's Resident Application form and a Personal Home Preadmission Screening form for G.D. (N.T. Vol 1 at 214, 216; C.E. 14, 15).
77. The Resident Application asked for G.D.'s personal information; an emergency contact; to whom the billing was to be directed; insurance information; physician information; a listing of medications G.D. was taking; and a category entitled, "Additional information or concerns we should know about or should be aware of". (C.E. 14).
78. On December 27, 2007 Anaya completed the "additional information" section by writing, "[G.D.'s] kind, loving adorable person willing to work well with others. Needs attention and support from staff and peers." (C.E. 14; R.E. 8 at 19).
79. The preadmissions screening form was completed in pertinent parts as follows:
- (a) Under Level of Supervision Anaya checked off: Requires minimal supervision and uses public transportation safely.
 - (b) Under Daily Living-Needs Help With- Anaya checked off: Managing health care, Personal Hygiene/ dressing and securing health care. Anaya did not check off: Toileting/bowel.
 - (c) Under Medical Care, Anaya checked off: Incontinence of bowel but did not check off incontinence of bladder.

(d) Anaya listed “Hygiene Carries Diper (sic)” under “other special care needs”

(e) Under Behaviors Exhibited, Anaya wrote: Sad/Tearful. (C.E. 16).

80. Anaya did not disclose to Kademani G.D.’s HIV status because Step by Step policies prohibited her from doing so. (N.T. Vol 1 at 233, 239-40, 303).
81. On January 2, 2008, Anaya picked up G.D. and her belongings and transported her to Canal Side. (N.T. Vol 1 at 147, 244; C.E. 11).
82. Anaya and G.D. arrived at Canal Side mid to late-morning. (N.T. Vol 2 at 178; C.E. 11).
83. Initially, G.D. and Anaya met with Kademani in her office to discuss G.D.’s Residential Application and Preadmission forms and to review the terms of a proposed Residential Admission Agreement. (N.T. Vol 1 at 221, 225, 302; N.T. Vol 2 at 102, 162-3, 164, 167, 171, 180).
84. Kademani testified that she reviewed G.D.’s Resident Application and Preadmission Screening forms and did not see any concerns so she proceeded to admit G.D. to Canal Side. (N.T. Vol 2 at 165-66).
85. There is a dispute regarding whether Anaya verbally informed Kademani about G.D.’s bladder incontinence at the January 2, 2008 meeting: Anaya testified that she told Kademani that G.D. had an incontinence problem, (N.T. Vol 1 at 155), Kademani denied this and offered that because Anaya had only checked off bowel incontinence the discussion was limited to this with Anaya saying G.D.’s bowel incontinence was just occasional. (N.T. Vol 2 at 103, 171-72).

86. Kademani also informed Anaya that she needed an MA-51 form as a soon as possible. (N.T. Vol 1 at 222, 284; N.T. Vol 2 at 186-87).
87. MA-51 forms contain the full medical evaluation of an individual. (N.T. Vol 1 at 222; N.T. Vol 2 at 186-87).
88. Anaya confirmed that G.D. already had an appointment the following week to have an MA-51 completed. (N.T. Vol 1 at 222, 284; N.T. Vol 2 at 187).
89. MA-51 medical evaluations may be completed up to 30 days after an individual has been admitted to Canal Side. (N.T. Vol 1 at 286-87; N.T. Vol 2 at 100, 187; C.E. 5; R.E. 11 at 152).
90. G.D. signed an incomplete Resident Admission Agreement. (N.T. Vol 1 at 285-86; N.T. Vol 2 180, 182; C.E. 5).
91. While G.D. and Anaya were meeting with Kademani, two Canal Side staff members, Shirley and Michelle were removing G.D.'s clothes from several bags in which they were brought to Canal Side and noticed that G.D.'s clothes were urine soaked. (N.T. Vol2 at 118, 206, 265; R.E. 9 at 62).
92. Before G.D.'s clothing was inventoried they were washed. (N.T. Vol 2 at 266; C.E. 5; R.E. 9 at 63).
93. Subsequently G.D.'s winter clothes were hung up and her summer clothes were stored in the attic. (N.T. Vol 1 at 157).
94. By 2:30 p.m. on January 2, 2008, G.D. had been placed on Canal Side's toileting plan which entailed queuing G.D. to go to the bathroom periodically during the day and waking her every two hours through the night reminding her to

- go to the bathroom. (N.T. Vol 1 at 324, 327; N.T. Vol 2 at 207-08, 213, 216; R.E. 9).
95. On the afternoon of January 2, 2008, at approximately 4:00 pm, while checking G.D.'s medications, Felicia Moliter, Canal Side's medication clerk, became concerned that G.D. was taking Valtrex. (N.T. Vol 2 at 105, 278).
96. Moliter then called Dahlia to come to the medication room at which time G.D. was called to come to the medication room. (N.T. Vol 1 at 130; N.T. Vol 2 at 103, 189; R.E. 9 at 65).
97. When asked why she was taking Valtrex, G.D. responded that she had shingles and she had shingles because she has HIV. (N.T. Vol 2 at 106, 278-79; R.E. 9 at 65).
98. G.D. pulled her clothing back to expose her neck area to Dahlia who checked G.D.'s skin but did not see any blistering. (N.T. Vol 2 at 288; R.E. 7 at 55; R.E. 9 at 65; R.E. 11 at 78-79).
99. Dahlia then went to Kademani's office requesting that she come to the medication room to clarify the situation regarding G.D. saying that she has HIV. (N.T. Vol 2 at 107, 279-90; R.E. 9 at 67-68).
100. Kademani described there being a commotion in the medication room as she approached. (N.T. Vol 2 at 193; R.E. 9 at 142-43).
101. When Kademani arrived in the medication room, Kademani asked G.D. to tell her the reason she was taking each of her medications. (N.T. Vol 1 at 130-31, 1334-34; R.E. 7 at 15, 54).

102. G.D. responded by telling Kademani she takes medication for HIV. (N.T. Vol 1 at 134).
103. Kademani's reaction to G.D.'s statement was shock and surprise. (N.T. Vol 2 at 204).
104. Kademani then asked G.D. how she acquired HIV. (R.E. 7 at 16-17).
105. What transpired next is in dispute: G.D. testified that Kademani told her she could not stay at Canal Side because she has HIV and that she had 24 hours to leave the facility; (N.T. Vol 1 at 132; R.E. 7 at 13, 15, 63, 82, 94, 96). Kademani denies telling G.D. she had to leave and had 24 hours to do so. (N.T. Vol 2 at 101, 112; R.E. 9 at 83).
106. In tears G.D. called Queen D. but when Queen D. asked what was wrong, G.D. lied and told her she was fine. (N.T. Vol 2 at 137-39; R.E. 7 at 73).
107. Shortly after learning G.D. had HIV, Kademani placed a telephone call to Bloss, G.D.'s healthcare provider at the Eastern Community HIV Organization, and left a message saying it was urgent and an emergency and asking that Bloss call her back. (N.T. Vol 1 at 163, 164, 166; N.T. Vol 2 at 108).
108. Bloss returned Kademani's call the same day. (N.T. Vol 1 at 166, 190).
109. Bloss was put on Kademani's speaker phone as other members of Canal Side staff were in Kademani's office. (N.T. Vol 1 at 167; N.T. Vol 2 110, 242; C.E. 6; R.E. 11 at 92).
110. To Bloss, Kademani's voice sounded very upset and panicked. (N.T. Vol 1 at 168, 170, 178; C.E. 6).

111. Indeed, Kademani testified that she was panicked and shocked. (N.T. Vol 2 at 112).
112. Kademani told Bloss that G.D. is a new Canal Side resident and had disclosed that she has HIV and that Kademani and her staff were concerned about HIV transmission and the risk G.D. posed. (N.T. Vol 1 at 168, 169, 170, 192; N.T. Vol 2 at 109, 242; C.E. 6).
113. Kademani asked numerous questions regarding whether G.D. can use a drinking glass, eat off a plate, use utensils and whether G.D.'s clothes can be picked up with bare hands without fear of getting HIV. (N.T. Vol 1 at 171-72).
114. Kademani also asked if someone can get HIV if the person who has HIV is incontinent and urinates on a chair. (N.T. Vol 1 at 168,171).
115. Bloss reviewed the ways HIV is transmitted and generally told Kademani and the staff listening on the speaker phone that G.D. is really a non-risk as long as universal precautions are used. (N.T. Vol 1 at 168, 173, 181; N.T. Vol 2 at 110; R.E. 9 at 148).
116. After speaking with Kademani, Bloss entered a note specifically to G.D.'s file. (C.E. 6).
117. Subsequent to hearing G.D. say that she has HIV, Kademani also called Anaya. (N.T. Vol 2 at 54,121-122; C.E. 12; R.E. 8 at 87).
118. Kademani left several messages urgently asking Anaya to call her back. (N.T. Vol 2 at 121-122, 220).

119. When Anaya and Kademani did speak, Kademani was extremely upset that Anaya did not tell her about G.D.'s HIV. (N.T. Vol 1 at 226, 293; N.T. Vol 2 at 15, 122, 219, 224; C.E. 12; R.E. 8 at 87).
120. Anaya informed Kademani that she was not permitted to disclose the fact that G.D. has HIV. (N.T. Vol 1 at 226, 303; N.T. Vol 2 at 48).
121. While Kademani denied that she told Anaya that Anaya had to remove G.D. from Canal Side, Anaya testified that Kademani told her that G.D. needed to be removed "right away". (N.T. Vol 1 at 226, 228, 292; N.T. Vol 2 at 15-16; C.E. 12; R.E. 8 at 96).
122. Anaya's version of her communications with Kademani suggests that Kademani told her that her staff was walking out because G.D.'s things were soiled and the staff had touched them. (N.T. Vol 1 at 226, 228, 292-93, 310; C.E. 12; R.E. 8 at 88).
123. Anaya also offered that Kademani wanted G.D. removed right away because Kademani would be leaving the country soon. (R.E. 8 at 96).
124. Kademani agreed that she informed Anaya that she needed to find another placement for G.D. (N.T. Vol 2 at 248).
125. During their conversation Kademani kept repeating the question, why didn't Anaya tell her about G.D.'s HIV. (N.T. Vol 1 at 228).
126. The conversation between Kademani and Anaya deteriorated into an argument. (N.T. 228, 280, 309).

127. After the first conversation Kademani called Anaya back, once again saying Anaya should have informed her of G.D.'s HIV and repeated that her staff was walking out. (N.T. Vol 1 at 310).
128. Anaya hung up on Kademani and went to speak with Zettlemyer. (N.T. Vol 1 at 228; N.T. Vol 2 at 13, 15).
129. At some point, Anaya called Kademani back and asked her for an additional day before removing G.D., to which Kademani agreed. (N.T. Vol 1 at 229, 279, 310; N.T. Vol 2 at 19,127).
130. Zettlemyer advised Anaya not to have further conversation with Kademani and that she would take any further calls from Kademani. (N.T. Vol 1 at 281; N.T. Vol 2 at 20, 28).
131. Zettlemyer also told Anaya to see if Queen D. can go to Canal Side to pick up G.D. (N.T. Vol 1 at 228)
132. Subsequently, Kademani called and spoke with Zettlemyer complaining about Anaya and questioning the validity of Anaya not informing her that G.D. has HIV. (N.T. Vol 2 at 14, 16, 29).
133. Kademani informed Zettlemyer that she was unwilling to allow G.D. to stay at Canal Side until a transition plan could be developed because her staff was threatening to quit because they were afraid to touch G.D.'s soiled clothes due to her incontinency and their fear of getting AIDS. (N.T. Vol 2 at 19, 32, 37).
134. Zettlemyer explained to Kademani Step by Step's confidentiality requirements and asked if Kademani's staff used universal precautions. (N.T. Vol 2 at 16).

135. After Kademani confirmed the use of universal precaution, Zettlemyer informed Kademani that her staff should have no need to be fearful then. (N.T. Vol 2 at 18, 30).
136. Despite her attempts to quell Kademani's concerns, Kademani declined to provide G.D. with any extended care options. (N.T. Vol 2 at 26).
137. On the morning of January 3, 2008, Anaya called Queen D. advising her that there was a possibility that G.D. was to be dismissed from Canal Side and that Queen D. needed to pick up G.D. (N.T. Vol 1 at 229; C.E. 13; R.E. 8 at 98; R.E. 10 at 64-65).
138. Anaya informed Queen D. that her supervisor did not want Anaya to have any further involvement with Kademani. (N.T. Vol 1 at 229).
139. Queen D. became upset after being told the G.D. had to be removed from Canal Side because she has HIV. (N.T. Vol 1 at 74, 230; R.E. 8 at 63).
140. Queen D. then attempted to call Kademani but was simply put on hold and told to call back. (N.T. Vol 1 at 75; R.E. 7 at 83).
141. After numerous telephone calls, eventually, Queen D. was able to speak with Kademani. (N.T. Vol 1 at 75; R.E. 10 at 75).
142. As they spoke, the conversation became heated as Kademani informed Queen D. that G.D. could not stay at Canal Side because she would infect her staff. (N.T. Vol 1 at 77, 115; R.E. 10 at 78).
143. Kademani told Queen D. that her staff was threatening to walk out and "this is a landlord/tenant situation. I'm the landlord. I can have anybody here I want." (N.T. Vol 1 at 76, 77; R.E. 10 at 78).

144. Queen D. informed Kademani that she works in a similar facility to Canal Side and that Canal Side staff just needs to practice universal precautions. (N.T. Vol 1 at 77).
145. Kademani repeated that the issue was that her staff was threatening to walk out and told Queen D that she does not have to deal with this. (N.T. Vol 1 at 77).
146. At this point, Queen D. felt G.D. would not be safe if she remained at Canal Side. (N.T. Vol 1 at 77-78).
147. Queen D. then called Anaya to say she was going to get G.D. because she felt she was not safe and she did not want G.D. there another night. (N.T. Vol 1 at 79-80).
148. Meanwhile, on the morning of January 3, 2008, Sillers began working on the first shift at 6:00 A.M. and discovered that G.D. has soiled her bed. (N.T. Vol 1 at 317).
149. Sillers simply cleaned up, disinfected G.D.'s bed and put on clean linens. (N.T. Vol 1 at 37).
150. As changing a bed's linens is part of the normal routine, Sillers neither told anyone about G.D. soiling her bed nor wrote it down anywhere. (N.T. Vol 1 at 318, 334-35).
151. That same morning, G.D. wanted to speak to Kademani but was told Kademani was too busy. (N.T. Vol 1 at 144; R.E. 7 at 83).
152. Queen D. and her sister April D. met Anaya at Step by Step and followed Anaya to Canal Side. (N.T. Vol 1 at 80).

153. Before Queen D. and April D. arrived, G.D. told Sillers that her sister is coming to take her home. (N.T. Vol 1 at 319, 341).
154. Sillers informed Dahlia regarding what G.D. said. (N.T. Vol 1 at 342).
155. When Queen D. and April D. arrived at Canal Side, Anaya left and Queen D. and April D. went inside where they first encountered Sillers. (N.T. Vol 1 at 80, 320).
156. Queen D. and April D. went to Dahlia's office and informed her they were there to pick up G.D. (N.T. Vol 2 at 290; R.E. 11 at 102).
157. Dahlia then took Queen D. and April D. to where G.D. was located. (N.T. Vol 2 at 290; R.E. 11 at 102).
158. When G.D. saw Queen D. and April D. she was happy but also shocked and surprised. (N.T. 81, 111, 141).
159. G.D.'s clothes were gathered up and Canal Side staff retrieved G.D.'s stored items from the attic. (N.T. Vol 1 at 81, 111, 112, 158; R.E. 10 at 79).
160. No one asked Queen D. why she was taking G.D. (N.T. 82).
161. Dahlia prepared a discharge form listing the reason for G.D.'s discharge as "incontinence". (N.T. Vol 2 at 291-93; R.E. 11 at 106-07).
162. Dahlia waited in the medications room for G.D. and, without discussion simply had her sign the discharge form when G.D. came to pick up her medications. (N.T. Vol 2 at 297; R.E. 11 at 108).
163. On January 3, 2008, when Sillers' shift ended at 2:30 P.M., as ordered by Kademani, Sillers wrote in her shift report. "All staff needed to wear gloves at all

- time (sic) from setting table to pulling trash” (N.T. Vol 1 at 321,347, 350-1, 364; R.E. 9 at 176).
164. To Kademani’s knowledge, G.D. was the first Canal Side resident that had HIV. (N.T. Vol 2 at 107).
165. Some Canal Side residents have Hepatitis C. (N.T. Vol 2 at 87).
166. In the past, at least one Canal Side resident developed shingles and that resident was quarantined until his shingles were no longer contagious. (N.T. Vol 1 at 331-37; N.T. Vol 2 at 89.)
167. In January 2008, Canal Side did not have a written policy regarding incontinence. (N.T. Vol 2 at 135; R.E. 9 at 33).
168. After removing G.D. from Canal Side, Queen D. took G.D. to her home where family and neighbors tried to assist Queen D. in caring for G.D. (N.T. Vol 1 at 84, 237).
169. Queen D. called another ICM to see if G.D. could be placed somewhere else. (N.T. Vol 1 at 78).
170. After G.D. arrived at Queen D.’s home, she was initially happy to see her children but, after a short while, G.D. went off by herself, paced back and forth, became quiet and was even more depressed, and sad and tearful than she had been before. (N.T. Vol 2 at 65, 78).
171. G.D. began not caring about matching her clothes or what she looked like. (N.T. Vol 2 at 66).
172. Also G.D.’s incontinence problem grew worse. (N.T. Vol 2 at 66).
173. G.D. grew more distant to her children and cried often. (N.T. Vol 2 at 66-67).

174. G.D. was embarrassed that she was not permitted to stay at Canal Side and she did not want either Queen D. or her children to know why she was made to leave Canal Side. (N.T. Vol 2 at 68).
175. Eventually, Queen D. came to the conclusion that G.D. could not stay with her, so Queen D. called Anaya telling her that G.D. needed placement because G.D. was taking a toll on her children and her marriage. (N.T. Vol 2 at 70).
176. Anaya came to Queen D.'s home and took G.D. to a shelter. (N.T. Vol 2 at 70).
177. At this point, there was still no transition plan for G.D. (N.T. Vol 2 at 78).
178. After a day or two, the shelter referred G.D. to St. Luke's Hospital for a psychiatric evaluation. (N.T. Vol 1 at 84).
179. Because G.D. had nowhere to go, St. Luke's did not discharge G.D. (N.T. Vol 1 at 85).
180. Instead, from the beginning of March to the end of May 2008, G.D. was placed on "lock down" on St Luke's psychiatric floor. (N.T. Vol 1 at 85; N.T. Vol 2 at 73, 79).
181. At the end of May 2008, St. Luke's referred G.D. to a facility called Manor Care. (N.T. Vol 1 at 86; R.E. 8 at 113).
182. G.D. presently resides at Manor Care. (N.T. Vol 1 at 122; R.E. 10 at 13, 100).

CONCLUSIONS OF LAW

1. The Pennsylvania Human Relations Commission has jurisdiction over the parties and subject matter of this case.
2. The parties and the Commission have fully complied with the procedural prerequisites to a public hearing.
3. G.D. is an individual within the meaning of the Pennsylvania Human Relations Act (“PHRA”).
4. G.D. is disabled within the meaning of the PHRA.
5. Canal Side is a housing accommodation within the meaning of the PHRA.
6. Canal Side and Kademani are persons within the meaning of the PHRA.
7. A Complainant can prove unlawful discrimination through direct evidence or circumstantial evidence.
8. G.D. has established her case by direct evidence.
9. G.D.’s direct evidence of discrimination is supported by a preponderance of the evidence.
10. Respondents Canal Side and Kademani’s discriminatory actions constitute violations of section 5(h) of the PHRA.
11. Kademani aided and abetted the discriminatory actions, in the violation of section 5(h) of the PHRA.
12. When discrimination has been found, the Commission has broad discretion in fashioning a remedy.

13. The Commission may award compensatory damages generally relating to housing discrimination, and actual damages, including damages for embarrassment and humiliation. The Commission may also award civil penalties and injunctive relief.

OPINION

This case arises on a complaint filed on behalf of G.D. by her power of Attorney, her sister, Queen D., against “Lakshmi Kademani/ Canal Side Care Manor” at PHRC Case # 200705453. In this complaint, verified on April 14, 2008, G.D. generally alleged that she was evicted by the “respondent” because of her disability, HIV. G.D.’s complaint alleges that the “respondent” violated section 5(h)(1) of the PHRA.

On November 27, 2009, a first amended complaint was subsequently verified by Queen D. on behalf of G.D. In the first amended complaint, G.D. clarified several things. First, G.D. renamed Canal Side Care Manor as Canal Side Care Manor, LLC, d/b/a Cabal Side Care Manor, (hereinafter “Canal Side”). Secondly, G.D. clarified her intention to pursue Kademani in her individual capacity. In the first amended complaint, G.D. alleges two counts: (1) an alleged eviction because of G.D.’s disability, HIV/AIDS in violation of section 5(h)(1) of the PHRA; and (2) that Kademani aided and abetted Canal Side’s eviction of her, in violation of section 5(e) of the PHRA. In count 1, G.D. also clarified that her 5(h)(1) case is brought against both Canal Side and Kademani as an individual.

The PHRC investigated G.D.’s original allegation and, at the conclusion of the investigation, informed Canal Side that probable cause existed to credit G.D.’s allegation. Thereafter, the PHRC attempted to eliminate the alleged unlawful practice through conference, conciliation and persuasion, but such efforts proved unsuccessful. Subsequently, by correspondence dated August 4, 2009, the PHRC notified the parties that it had approved a Public Hearing.

The Public Hearing was held on April 8 and 9, 2010, in Easton, Pennsylvania, before a three member panel consisting of Panel Chairperson Sylvia A. Waters, Panel