



**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)	
)	
PATRICK R. MORRIS,)	
)	CHARGE: 1987CF2043
Complainant,)	EEOC: 21B870898
)	ALS NO: 7641
)	
and)	
UNIVERSAL OIL PRODUCTS, INC.,)	
Respondent.)	

RECOMMENDED ORDER AND DECISION

On August 30, 1993, the Illinois Department of Human Rights (Department) filed a Complaint of Civil Rights Violation with the Commission, alleging that Respondent, Universal Oil Products (UOP), discriminated against Complainant, Patrick R. Morris, on the basis of race by failing to rehire him in 1986. A Public Hearing was held on April 22, 2001. Subsequently, post-hearing briefs were filed. This matter is now ready for decision.

Findings of Fact

1. Patrick R. Morris is a Caucasian man.
2. Morris was hired by UOP in 1980 as an electrician trainee, to work in the Electrical Shop at UOP.
3. At that time (1980), he had no prior electrical experience.
4. Morris was hired by Joe Barnes, Electrical Shop Supervisor.
5. Barnes is a Caucasian man.

6. At the time of Morris' hiring, The Electrical Shop was a 12-person department consisting of 10 Caucasian and 2 African American employees.
7. Those employees had skills that were concentrated in the following areas: electricity, electronics, and refrigeration; some employees had expertise in more than one area.
8. In 1983, UOP required that Barnes lay off one Electrical Shop employee.
9. On September 30, 1983, Barnes selected Morris for layoff. At this time, Morris was an "Electrician 2". An Electrician 2 is more advanced than an Electrician Trainee.
10. In 1986, Barnes was charged with converting/modernizing the Electrical Shop; Barnes was given approval by UOP to hire an additional electronics technician.
11. That electronics technician would have to have experience in electronics and/or at least 2 years of formal training in electronics.
12. Electricians and Electronics Technicians have different sets of skills.
13. Barnes received 3 applications for the electronics technician position. One was rejected because the person had no training or experience in electronics.
14. The second application was that of Raymond Catala. Catala had formal electronics training and more than 5 years of industrial electronics experience.
15. The third application was that of Carlos Fournier. Fournier had no employment experience in electronics, but had many years of formal training in electronics at DeVry Institute, a highly respected trade school, and at Joliet Community College.

16. Barnes hired Catala, rather than Fournier, based upon his 5 years of industrial electronics employment experience; Catala began working for UOP on July 14, 1986.
17. After Catala had been offered the job, but before his start date, Morris visited Barnes, unannounced, because Morris heard that Barnes was hiring at the Electrical Shop.
18. Barnes told Morris that he had already hired someone for the position, but that if another position became available, he would re-hire him (Morris).
19. Morris had no formal training in electronics.
20. Morris' prior experience at UOP was primarily assisting more experienced Electrical Shop workers with electrical, not electronics projects.
21. Morris' prior experience with UOP did not give him sufficient electronics experience.
22. Catala worked for UOP for only three weeks. After his resignation, Barnes offered the job to Fournier, who accepted.
23. After Fournier's hire, The Electrical Shop had an 11 person staff consisting of 8 Caucasians, 2 African Americans and 1 Hispanic.
24. Fournier worked for UOP for almost 3 years, at which time he left voluntarily for another position.
25. Barnes replaced Fournier with Dennis Burke, a Caucasian man, who had electronics expertise.
26. Between 1983 and 1995, when he retired, Barnes did not hire any electricians.

Conclusions of Law

1. Complainant, Patrick R. Morris, is an "aggrieved party" as defined by Section 1-103(B) of the Illinois Human Rights Act.
2. Respondent, Universal Oil Products, Inc., is an "employer" within the meaning of Section 2-101(B) (1) (a) of the Act.
3. The Illinois Human Rights Commission has jurisdiction over the parties as well as the subject matter.
4. Complainant failed to present a prima facie case of race discrimination.
5. Nevertheless, Respondent articulated a legitimate, non-discriminatory reason for its treatment of Complainant.
6. Complainant failed to prove by a preponderance of the evidence Respondent's articulated reason was a pretext for race discrimination.

Discussion

The method of proving a charge of discrimination through indirect means is well established. First, complainant must establish a prima facie showing of discrimination. If (s)he does so, respondent must articulate a legitimate, non-discriminatory reason for its actions. In order for complainant to prevail, (s)he must then prove that respondent's articulated reason is pretextual. Zaderaka v. Human Rights Commission, 131 Ill.2d 172, 545 N.E.2d 684 (1989).

In order to establish a prima facie case of race discrimination in this matter, Morris must present facts establishing that (1) he is a member of a protected class; (2) he applied and was qualified for the position; (3) despite his qualifications, he was rejected for the position; and (4) Respondent hired a person with qualifications similar to or lesser than Complainant's. Yasunaga v. City of Chicago, (Charge No. 1991CF0202; ALS No. 5214), (1996 ILHUM LEXIS 1087) (November 25, 1996), Johnson and Board of

Education, Gurnee School District #56, ___ Ill. H.R.C. Rep. ___, (1997CF0394, January 12, 1999).

In the case at bar, it is undisputed that Morris belongs to a protected class. However, he has not established the remaining three prongs of his *prima facie* case. The position for which UOP was hiring in 1986 required that the successful applicant have formal electronics training or work experience in the electronics field. At this time, UOP was moving toward “automation”, a move that required Electrical Shop employees with knowledge of electronics, rather than electricians. UOP tried to make the transition hiring electrical engineers, but that failed. Therefore, the position for which UOP was hiring required a person that had employment experience in electronics and/or at least 2 years of formal training in electronics. (R. 100-104). It should be noted that skills in electrical work and skills in electronics are two entirely different skill sets. Electricians, without further education, were not qualified to do the work that was required during the transition at UOP in 1986. (Id.)

Morris had no formal electronics training. Between the times he was laid off and the new position became available, he had done electrical side jobs. (R. 65). Previously, when Morris worked for UOP, he obtained a cursory knowledge in electronics while assisting others, but nothing that would qualify as “employment experience” in that area. (R.136). Morris testified that while at UOP, he worked with electronics “on occasion”; the bulk of his work was that of an electrician. (R. 32-33). Morris had neither formal training nor work experience in electronics. Additionally, at the public hearing, Morris did not seem to have a grasp of the field when technical electronics questions were asked. (R. 74-76).

Barnes considered applicants for the electronics technician position who met the requisite qualifications. He received three applications for the position. One was rejected because, like Morris, the applicant had no electronics training or experience. The next applicant, Raymond Catala, had completed formal education in the electronics field at Coyne Institute, and had 5-5 1/2 years of experience in electricity and electronics. His last two years had been spent building control panels, identical to the ones used at UOP. (R. 107-108).

The next applicant, Carlos Fournier, completed his formal education by graduating with honors from DeVry Institute, a well respected trade school, studying communications and visual electronics. Fournier also took courses in analog and digital electronics at Joliet Community College, where he was an honor student as well. Additionally, Fournier took courses in Electricity. Fournier completed his education while working part-time at Jewel Food Stores (Jewel). Fournier worked for Jewel for a number of years, a fact that Barnes thought demonstrated Fournier's dependability. (R. 109-111).

Fournier received some low grades during his academic career and had to re-take some courses, but Barnes testified that many people do badly in those particular courses and must re-take them, therefore the low grades did not affect Barnes' evaluation of Fournier adversely. At any rate, Fournier's grades at Joliet Community College, where he was a student at the time he made application to UOP, were all very good. (R. 133, 142). However, based upon his employment experience, Barnes hired Catala for the position (R. 113). Catala worked for UOP for only 3 weeks. Barnes then chose Fournier to fill the position. Morris, having neither employment experience in electronics, nor

formal education in electronics, was not qualified for the position of an electronics technician. Consequently, Morris fails to establish prongs 2, 3 and 4 of his *prima facie* case.

Morris' lack of qualifications also serves as Respondent's legitimate non-discriminatory reason for not re-hiring Morris for the electronics technician position. Further, UOP did not ever re-hire Morris because he was not qualified for jobs in the Electrical Shop. The Electrical shop needed persons versed in electronics –Morris was not versed in electronics; Barnes did not require any electricians from 1986 until he retired from UOP in 1995. There were no jobs for which Morris was qualified – his area of expertise was electricity.

Morris places great reliance upon a conversation between himself and Barnes that occurred between the time that Catala was hired and Catala's start date. Morris found out about the position for which UOP was hiring. He went to see Barnes and applied for the position. Barnes informed Morris that he had hired someone for the electronics technician position, but if that person did not work out, he would hire Morris. (R. 42-45).

Given the fact that UOP was undergoing the transition to automation at this time, and that this transition required people with electronics experience, I find that it is unlikely that Barnes would offer an electronics technician position to someone without an electronics background. Prior to 1986, when the transition began, UOP tried to implement the transition using electrical engineers, but once hired, the electrical engineers were unable to do the job. (R. 104-105). It is more likely that Barnes offered Morris the next **electrician** position at UOP (R. 116-117), but unfortunately no electrician position ever became available.

Further, the racial makeup of the Electrical Shop belies Morris' contention that the fact that Barnes hired minorities between 1979 and 1986 (except for Complainant, of course) indicates that not re-hiring Morris was discriminatory based upon race. At the time of Morris' hiring in 1980, The Electrical Shop was a 12-person department consisting of 10 Caucasian and 2 African American employees. After Fournier's hire, in 1986, the Electrical Shop had an 11 person staff consisting of 8 Caucasians, 2 African Americans and 1 Hispanic. Further, when Fournier left UOP in 1989, the person hired to replace him was a Caucasian male. Clearly, Morris was not re-hired at UOP because he lacked the necessary qualifications. UOP, changing with the times due to technological advancement, required employees at the Electrical Shop to have an electronics background. Complainant did not have that background.

Recommendation

Based upon the foregoing, it is recommended that the complaint and the underlying charge be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

BY:
WILLIAM H. HALL
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: March 12, 2002