



STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

IN THE MATTER OF)	
)	
Johnny Littleton,)	
Complainant)	
)	Charge No.: 1998CF2406
and)	EEOC No.: 21BA 981884
)	ALS No.: 10850
)	
Overnite Transportation Co.,)	
Respondent)	

RECOMMENDED ORDER AND DECISION

In his Charge No. 1999CF2406 filed on April 6, 1998, Complainant alleged a violation of Section 2-102(A) of the Illinois Human Rights Act by Respondent in that Respondent prevented Complainant from obtaining a desirable truck-driving route due to his race, black. This matter is now before me pursuant to an order of default entered by the Commission against Respondent on June 2, 1999 following the filing of the Department of Human Right's Petition for Default Order and Complaint for Damages on April 27, 1999. A public hearing on damages was conducted on March 6, 2003 with Complainant and his attorney and counsel for Respondent, accompanied by a company representative, participating. Both parties filed their initial post-hearing briefs, but only Respondent filed a reply brief. Complainant also failed to file a petition for attorney's fees and costs. This matter is now ready for disposition.

Statement of the Case

During the Department's investigation of Complainant's charge, Respondent failed to appear at the fact-finding conference scheduled for September 24, 1998 and later failed to establish good cause for this omission. Consequently, an order of default was entered at the Department on April 23, 1999, followed by the filing of its Petition with the Commission as noted above.

However, before a public hearing on damages could be held, Respondent attempted to appeal the default order to the Illinois Appellate Court and a stay was entered by the Commission on June 29, 1999. Even at the time the stay was granted, the Chief Administrative Law Judge noted that it was unlikely the appeal would be successful in light of the then-recent decision of the Appellate Court in Pinkerton Security and Investigation Services v. Illinois Department of Human Rights, 309 Ill.App.3d 48, 722 N.E.2d 1148, 243 Ill.Dec. 79 (1st Dist. 1999) which held that a default order by the Commission cannot be reviewed until the public hearing on damages is held and a final order is subsequently issued by the Commission. However, the action in the Appellate Court was not concluded until April 25, 2001 and the matter was returned to the Commission for the public hearing on damages.

A period of discovery then ensued that was completed on April 10, 2002. June 26, 2002 was the first of a series of public hearing dates established for this matter until the public hearing was finally held on March 6, 2003. The initial post-hearing briefs of both parties were filed on May 16, 2003 and Respondent filed its

reply brief on June 13, 2003. As noted above, this matter is now ready for decision.

Findings of Fact

1. Complainant Johnny Littleton filed his Charge No. 1998CF2406 with the Illinois Department of Human Rights on April 6, 1998 alleging that Respondent Overnite Transportation Co. unlawfully discriminated against him in the assignment of truck-driving routes due to his race, black.
2. Respondent failed to appear at the Department's fact-finding conference on September 24, 1998. After a Notice of Default was sent to Respondent on November 13, 1998 and its timely request for review was subsequently denied, the Department filed a Petition for Default Order and Complaint for Damages with the Commission on April 27, 1999. The Commission's Order of Default was issued on June 2, 1999. The required public hearing on damages was ultimately held on March 6, 2003 (see full procedural history of this case above).
3. Complainant, his counsel, Respondent's counsel and a representative of Respondent attended the public hearing. Both parties filed initial briefs following the public hearing, but only Respondent filed a reply brief. No petition for attorney's fees and costs was filed on behalf of Complainant.

4. Complainant is seeking reinstatement to employment with Respondent.
5. Complainant is entitled to an award of \$225,333.41 as back pay and \$950.00 per week until such time he is reinstated to his employment with Respondent (or until the parties otherwise mutually agree to end the payment of this weekly award). The calculations supporting these figures are found below and are incorporated in this finding of fact.
6. In that no petition for attorney's fees or costs was submitted, there will be no award for these elements of damages included here.
7. Complainant suffered a work related injury in 1998 for which he took a disability leave of absence from July, 1998 through January, 1999.
8. Complainant was certified to return to work on light duty by Dr. George Miz on February 2, 1999, but Respondent refused to reinstate him in contravention of its own policy regarding work related injuries.
9. Respondent's claim that Complainant was discharged in July, 1999 because he was on disability for a non-work related injury for one year was pretextual in that Complainant was injured in a work related incident and he was available for light duty assignments as of February 2, 1999.

Conclusions of Law

1. Complainant is an “aggrieved party” and Respondent is an “employer” as those terms are defined by the Illinois Human Rights Act, 775 ILCS 5/103(B) and 5/2-101(B).
2. The Commission has jurisdiction over the parties and the subject matter of this action.
3. In accord with the default order entered on June 2, 1999, Respondent is liable for a violation of the provisions of the Illinois Human Rights Act that prohibit discrimination based on the race of an employee.
4. Based on the default of Respondent and its failure to effectively counter the requests made by Complainant with regard to an award for back pay and reinstatement with credible evidence, Complainant is entitled to an award for each of these elements of loss in order to be made whole. The details of the award are listed at the end of this recommended order and decision, and are incorporated in this finding.
5. Complainant’s proposed Exhibit 7 (CX-7), an “Illinois Industrial Commission Settlement Contract Lump Sum and Order” dated March 25, 2002, is found to be relevant credible and material to the issues in controversy in this matter, and it is admitted as evidence in this matter upon the filing by Complainant of a copy duly certified

as “true and correct” by an official of the Illinois Industrial Commission, an agency of the State of Illinois.

Discussion

A. Default

During the investigation of Complainant’s charge of racial discrimination at the Department of Human Rights, Respondent failed to appear at the fact-finding conference held on September 24, 1998. Subsequently, Respondent was unable to establish good cause for this omission and an order of default was entered at the Department against Respondent on April 23, 1999. After the Department filed its Petition for Default Order and Complaint for Damages with the Commission, a final order of default was entered on June 2, 1999.

Respondent appealed the default order to the Illinois Appellate Court and a stay of proceedings here was entered by the Commission on June 29, 1999. In that stay order, the Chief Administrative Law Judge presciently noted that it was unlikely that the appeal would succeed in light of the then-recent decision of the Appellate Court in Pinkerton Security and Investigation Services v. Illinois Department of Human Rights, 309 Ill.App.3d 48, 722 N.E.2d 1148, 243 Ill.Dec. 79 (1st Dist. 1999). The latter case held that a default order by the Commission cannot be reviewed until the public hearing on damages is held and a final order is subsequently issued by the Commission. The Appellate Court returned the case to the Commission on April 25, 2001 for the purpose of conducting the previously ordered public hearing on damages.

As a result of the default by Respondent, all issues of liability are resolved against it and entry of an award reflecting Complainant's damages resulting from Respondent's unlawful conduct is the only issue now before the Commission. Because of the default, it is the Commission's general principle that any ambiguity in the determination of damages be resolved against the respondent. Clark v. Human Rights Comm'n, 141 Ill.App.3d 178, 183, 490 N.E.2d 29, 95 Ill.Dec. 556 (1st Dist. 1986).

B. Evidentiary Ruling

During re-cross examination of Complainant by Respondent's counsel, the attorney attempted to establish that Complainant's 1998 injury was not work related. However, in response to Respondent's question to that effect, Complainant replied, "Yes, it was." Tr. 33. Before completing the re-cross, Respondent's counsel elicited the information that Complainant received a settlement from Respondent for a worker's compensation claim filed in 1998. The attorney seemed taken aback upon receiving this information.

Later, during the cross-examination by Complainant's counsel of Rudy Higgins, Respondent's facility manager, representative at the public hearing and its only witness, the witness disavowed knowledge of a worker's compensation case between Complainant and Respondent. Complainant's counsel produced a copy of an "Illinois Industrial Commission Settlement Contract Lump Sum and Order," dated March 25, 2002, for Industrial Commission case number 98 CW 57238, which was marked as Complainant's Exhibit 7 (CX-7) for identification.

The existence of the worker's compensation case, which indicated that the dates of injury were January 23, 1998 and July 20, 1998, is significant in that on direct examination, Mr. Higgins had testified that an employee with medical restrictions was discharged after one year if he or she was unable to resume full employment without restriction unless the injury from which the restrictions arose was work related. Tr. 55-56. He further testified that Complainant was under restriction due to an accident that was not work related, therefore putting him at risk for being terminated under the one-year rule. Tr. 52-55. Respondent's Exhibit 6 (RX-6), a "Human Resources Action Form," then was introduced through Mr. Higgins to establish that the one-year rule was applied against Complainant. This form shows on its face that Complainant was terminated from his employment on July 7, 1999 because "FMLA EXPIRED." RX-6.

When Complainant's counsel moved for the admission of CX-7 and 8 (the latter being a copy of the check apparently issued pursuant to the settlement memorialized in CX-7), Respondent's counsel objected to both based on the failure of Complainant to produce these documents during discovery and lack of foundation. The objection to proposed CX-8 was sustained and the ruling on CX-7 was deferred pending certification of that form from the records of the Illinois Industrial Commission (now known as the Illinois Workers Compensation Commission). A copy of CX-7, certified as true and correct by the proper authority from that Commission, was submitted by Complainant with his initial post-hearing brief filed on May 16, 2003.

In its post-hearing reply brief, Respondent continues its objection to the admission of CX-7 into evidence, again citing the “surprise” it suffered when it was produced at the public hearing. However, this objection disregards the context in which the document was produced. On direct examination, Mr. Higgins painstakingly set out the company policy regarding light duty assignments and the one-year rule for discharge applicable to medical restrictions not arising from work related injury. He further testified that Complainant was injured in an accident not related to his employment and that he was unable to resume unrestricted work duties after taking a leave of absence due to those injuries. If this testimony is found to be credible, it will significantly restrict the period of time for which Complainant can claim back pay, as well as likely prevent his reinstatement to a position with Respondent as requested.

It was with this backdrop that Complainant’s counsel embarked on his cross-examination of Mr. Higgins. First, the cross-examination reiterated the policy regarding light duty and the internal process for handling worker’s compensation matters. Mr. Higgins then denied any knowledge of Complainant’s worker’s compensation matter against Respondent filed under case number 98 WC 57238. CX-7 was then shown to Mr. Higgins as evidence of the worker’s compensation matter. Even when faced with this document, which was later authenticated by the (then named) Industrial Commission, Mr. Higgins continued to deny knowledge of the worker’s compensation case although he was manager of Respondent’s South Holland facility from 1996 at least through the date of the public hearing.

I find that the use of CX-7 only became necessary when Respondent's witness testified to a course of events that contradicted the existence of the worker's compensation case verified by CX-7. The subject document was therefore produced for the purpose of impeaching Mr. Higgins' testimony. The claim of Respondent that it was "surprised" by the production of CX-7 is disingenuous. Respondent was a party to the worker's compensation case and is charged with knowledge of that matter for the purposes of this case. Finally, the document is admissible as a public record in that it is certified as "true and correct" by the Industrial Commission, an agency of Illinois state government. Therefore, I find that CX-7 is relevant, material and competent as evidence in this case and it will be admitted over the objection of Respondent as Complainant's Exhibit 7.

C. Damages

Back Pay -- The first element of damages to be considered is Complainant's request for back pay. While the parties agree that an award of back pay is appropriate, there is a significant disparity between their respective calculations of the amount to be entered -- \$139,169.72 is requested by Complainant and \$211.09 is suggested by Respondent. Neither is correct.

An examination of Respondent's argument reveals that its suggested amount is based on several misapplications of the evidence regarding back pay. First, Respondent seems to be assuming that the "discharge" incident in July, 1999 can only be relevant to the calculation of back pay if Complainant has alleged that the discharge was itself discriminatory: "As an initial matter,

(Complainant's) challenges of (Respondent's) light duty denial and his discharge are time-barred under Title VII statutes of limitations." Respondent's Reply Brief, at 1. There are at least three incorrect assumptions reflected in this assertion by Respondent. First, Respondent identifies the applicable statutory law as Title VII, which is a federal statute not relevant to actions under the Human Rights Act brought to this Commission. Then, the reference to a "statute of limitations" is also misleading in that under the Illinois Human Rights Act, the period of time provided for a complainant to come forward with his or her allegations is considered to be jurisdictional and is therefore not subject to the equitable remedies of waiver, estoppel or tolling as would be a statute of limitations. Robinson v. Human Rights Comm'n, 201 Ill.App.3d 722, 559 N.E.2d 229, 147 Ill.Dec. 229 (1st Dist. 1990). Finally, and most significantly, this assertion assumes that the import of the purported discharge relates to the issue of liability for the matters alleged in Complainant's charge. However, the significance of the "discharge" in this case is instead its relevance as a point of reference in the calculation of Complainant's back pay. That is, if the discharge was properly levied in accord with Respondent's facially neutral "one year and out" personnel policy, Complainant will not be eligible for back pay beyond the effective date of that discharge. Conversely, if the "discharge" was effected by Respondent in bad faith, with the neutral personnel policy merely being a pretense, the so-called "discharge" will be disregarded for the purpose of calculating Complainant's back pay.

In this case, there are two proposed paths leading to Complainant's discharge in July, 1999. There is Mr. Higgins' initial account that Complainant was injured in a non-work related accident for which he took a leave of absence, that he was denied the opportunity to return to work in a light-duty assignment in February, 1999 when his physician certified he was able to do so, and that he was terminated in July 1999 in accord with Respondent's policy of discharging anyone who is physically unable to resume his duties after one year where the disability is not work related. In support of this account, Respondent introduced a form titled "Family Medical Leave Request & Certification of Physician or Practitioner." RX-5. This form does not indicate when it was prepared or filed in the company records and there is no signature in the space provided for the approval of the Human Resources Department. It does state that the last day worked by Complainant was July 2, 1998 and it was signed by the physician, Dr. George Miz, on July 9, 1998. The medical reason for the family leave is given as "herniated cervical disc," with a surgery date of October 13, 1997 noted. Another entry in the form indicates that the underlying medical condition may have arisen as early as December, 1996. None of the four boxes for the "reason for leave" are checked, including those for "Job related injury" or "Employee's serious health condition ...;" the form is ambiguous with regard to whether the medical cause was or was not work related. The form is signed, without dates, by both Complainant and Respondent's manager, Mr. Higgins.

It is undisputed that Complainant attempted to return to work on light duty in February, 1999, submitting a note from Dr. Miz dated February 2, 1999. The

note stated that Complainant could “Return to work. 20 (pound) lifting restriction(.) No repetitive cervical rotation. Light duty.” CX-2. Mr. Higgins explained that light duty assignments were only given to employees who had work related injuries and therefore, Complainant’s request was denied. Finally, Complainant was discharged on July 7, 1999 because he was not able to return to full duty one year after taking medical leave. To further support this course of events, Respondent introduced a “Sick Pay Application,” signed by Complainant and Mr. Higgins, dated July 9, 1998. The form indicated that it was based on “neck & back” injury that occurred when “I was rear end in my car (sic).” RX-7. Complainant testified in rebuttal that he did not recall the form, but that it is his signature at the bottom. However, the hand entries throughout the remainder of the form were not in his printing. He was not cross-examined regarding this testimony. Tr. 85-86.

To contradict Respondent’s assertion that Complainant was terminated in accord with its policy on medical leave not involving a work related injury, Mr. Higgins was confronted with evidence that Complainant did have a work related injury for which he filed a worker’s compensation claim that was ultimately resolved in his favor by the settlement of March 25, 2002. The injuries for which that claim pertained occurred on January 23, 1998 and July 20, 1998 (since both parties acknowledge that Complainant was not able to work as of the latter date, it is likely a misstatement of the actual date of injury). Although Mr. Higgins denied knowledge of the worker’s compensation claim, I find that his denial is not credible. At all relevant times, he was the manager of Respondent’s South

Holland facility, which makes it likely that he would have first hand knowledge of the matters alleged in the claim. Further, Respondent's counsel never solicited clarifying testimony from either Complainant or Mr. Higgins about the source of Complainant's disabling injury. Respondent's counsel had ample opportunity to confront Complainant about the details of his injury on cross-examination, re-cross examination and on cross-examination after Complainant's rebuttal testimony. Further, Complainant could have been called as a adverse witness during Respondent's case-in-chief, especially after the telling cross-examination of Mr. Higgins by Complainant's counsel as recounted above. Again, this was not done, perhaps because Respondent's counsel could not be certain that the account provided by Mr. Higgins would withstand the testimony that would be forthcoming if he aggressively pursued Complainant.

It is, however, clear that Mr. Higgins' original account concerning the discharge of Complainant cannot be given credence. He apparently believed that somehow the existence of the worker's compensation case would not become part of the record of this case and he was thoroughly impeached through the admission of CX-7. For this reason, the "discharge" of Complainant in July, 1999 will not toll the period of time for which he is eligible for back pay and, as will be discussed further below, it will not prevent a recommendation that Complainant be reinstated to employment with Respondent.

The discussion of back pay will be divided into three distinct periods of time: March 26, 1998 (the date of the discriminatory action alleged by Complainant in his charge and accepted as proven due to the default of

Respondent) through July 2, 1998 (the date on which he became unable to work due to a work related injury) will be referred to as Period A; July 3, 1998 to February 1, 1999, the period during which Complainant could not work due to his disability will be referred to as Period B; and February 2, 1999 through the date of this Recommended Order (and beyond) will be referred to as Period C.

First, he will not receive back pay for Period B, the disability period. Even though Respondent inartfully cites the federal district court case of Bender v. Salvation Army, 830 F.Supp. 154 (M.D. Fla. 1993) to support its assertion that back pay will not be credited for a period of disability leave, the Commission also follows this principle. Banks and American Airlines, Inc., III. H.R.C. Rep. (Charge Nos. 1985CF0174, 1986CF0026 & 1986CF1502, June 11, 1993). Further, the worker's compensation settlement amount of \$25,000.00 (of which \$5,000.00 was paid to Complainant's attorney for that case) can be attributed to this period of time as well. Therefore, no back pay will be awarded for Period B.

The method of calculation of the back pay for Periods A and C, respectively, will differ. Back pay for Period A, the pre-disability period, will be based on the difference between the compensation Complainant actually received from Respondent versus the compensation he should have received but for the discriminatory conduct of Respondent. The back pay (and front pay until Complainant is reinstated) for Period C, the post-disability period, will be based on the compensation he would have received for the light duty assignment for which he became eligible when Dr. Miz certified his availability in CX-2.

During Period A, Complainant earned \$14,176.59. This amount is shown on Respondent's payroll record (RX-2) for Complainant's 15 pay periods ending March 28, 1998 through July 4, 1998, which was adopted by Complainant in his initial brief as an accurate representation of his earnings. Complainant's Initial Brief at 7. If Complainant was allowed to take the assignments he desired, but which were denied to him due to the discriminatory conduct of Respondent, he would have driven 2,500 miles per week (plus 300 miles of overtime, a total of 2,800 miles) at \$0.38 per mile, plus additional compensation for non-travel activities such as drop-off, hook-up, and fueling at the rate of \$13.00 per hour. Tr. 11. The compensation for 2,800 miles of driving is \$1,064.00 per week. The record does not reflect the average number of hours for non-travel activities, but it is not unreasonable to assume that a driver would accumulate 10 hours of such services during a week, or \$130.00, for a total weekly compensation of \$1,194.00. Complainant's corrected compensation for the 15 relevant pay periods is \$17,910.00 and his back pay for Period A is \$3,733.41.

Period C began on February 2, 1999, the date on which Complainant's physician, Dr. Miz, certified that he was able to resume a light duty assignment with Respondent. As noted above, Respondent declined Complainant's request for light duty even though Complainant's worker's compensation claim for a work related injury was then pending. For the purposes of this back pay award, the pretextual "discharge" of Complainant in July, 1999 will be disregarded. Therefore, Period C extends from February, 1999 through the date of this Recommended Order and will form the basis of the front pay award to be given

to Complainant in consideration of the recommendation for reinstatement to his employment with Respondent.

The nature of the weekly compensation to be given to Complainant for all of Period C will be that for light duty because that is the category of employment for which he was last medically certified. The measure of this compensation is not readily evident in that Complainant never worked nor was compensated for light duty and the record provides little information as to the duties and hours assigned to light duty personnel. However, it is reasonable to assume that a driver on light duty would be paid at least the average amount paid to a driver working full time, but without overtime and extra compensation for the so-called non-travel activities. As indicated above, Complainant would have driven 2,500 miles per week with 300 miles of overtime (at \$.38 per mile) if he had received the assignment unlawfully denied to him by Respondent, along with \$13.00 per hour for non-travel activities. Therefore, without overtime and the additional compensation for non-travel activities, Complainant's compensation for light duty would at least be the equivalent of driving 2,500 miles at \$.38 per mile, or \$950.00 per week. Since Period C encompasses 308 weeks, the recommended gross back pay for Complainant for Period C is \$292,600.00. Therefore, the gross back pay amount for Complainant for Periods A and C is \$296,333.41.

Income earned by Complainant must be deducted from the gross amount of back pay. At the public hearing, Complainant testified that he was earning an average of \$12,000.00 per year as a truck driver. Respondent did not cross examine Complainant about this assertion and no other evidence of

compensation paid to Complainant during Period C was entered into evidence at the public hearing. Therefore, the gross back pay award will be reduced by \$11,000.00 for the year 1999 (11/12 of \$12,000.00) and \$60,000.00 for the five years, 2000 through 2004, at the rate of \$12,000.00 per year, a total of \$71,000.00. Thus, the net back pay award recommended for Periods A and C is \$225,333.41.

Mitigation -- In its initial post-hearing brief, Respondent asserted that Complainant should not receive back pay because he failed to mitigate his damages by making “substantial efforts to find replacement employment” and that “(a) Title VII litigant has an affirmative duty to mitigate his damages.” Respondent’s Initial Brief at 13. Once again, Respondent seeks to invoke a federal principle in the course of defending an action under the Illinois Human Rights Act. The Commission recognizes failure to mitigate damages as an affirmative defense for which the burden of proof lies with the respondent asserting that defense. The elements for proving failure to mitigate are found in Golden and Clark Oil and Refining Corporation, Ill. H.R.C. Rep. (1978CF0703, July 1991): “First, the respondent must prove that there were substantially equivalent positions which were available. Second, the respondent must prove that the complainant failed to use reasonable care and diligence in seeking such positions.” In this case, Respondent did not present any evidence for either prong of the Golden test. Therefore, its claim of failure to mitigate damages fails.

Reinstatement -- Where a respondent is found to have engaged in discriminatory behavior, it is presumed that a complainant is entitled to reinstatement to employment with that respondent with all seniority that would have accrued after the date of discharge as well as restoration of the level of benefits befitting that seniority. Here, Complainant has specifically requested reinstatement. Tr. 23. It is not known if Complainant presently is physically able to take on any employment, whether full time driving or a light duty assignment. Nonetheless, it is recommended that Complainant be reinstated to employment with Respondent, subject to the conditions indicated below. The recommendation will include the payment of \$950.00 per week (less any earned income or benefits paid to Complainant during that week) until Complainant is reinstated to Respondent's regular payroll, or he declines reinstatement, or, as the result of a medical examination, he is found physically unable to undertake either full time driving or light duty.

Attorney's Fees and Costs -- No petition for attorney's fees or costs was submitted by Complainant. Therefore, no award for attorney's fees and costs will be included in the recommendations below.

* * *

Other elements of the award, as permitted by the cited section of the Act and the Commission's procedural rules, or otherwise not requiring additional analysis, are specified in the recommendation summary below.

Recommendation

It is recommended that in accord with the default entered against Respondent, that Respondent is liable for a violation of the Human Rights Act as alleged in the charge, and that Complainant be awarded the following relief:

- A. That Respondent pay Complainant back pay in the amount of \$225,333.41;
- B. That Respondent pay Complainant interest on all elements of this award contemplated by Section 8A-104(J) of the Human Rights Act (735 ILCS 5/8A-104(J)) and calculated as provided in Section 5300.1145 of the Commission's Procedural Rules, to accrue until payment in full is made by Respondent;
- C. That Complainant be reinstated to employment with Respondent within 30 days after a final order of the Commission incorporating this recommendation becomes effective. Reinstatement shall be to either unrestricted full time driving with all seniority since March, 1998 restored or to light duty, as certified by any physician currently treating Complainant or such other physician that the parties may agree upon. Complainant will be reinstated at a rate of pay commensurate with that which he would now be paid if the civil rights violation and pretextual discharge had not occurred, with all seniority and other benefits in his favor to be fully restored to Complainant. From January 1, 2005 and until Complainant is reinstated, or declines reinstatement, or fails to accept

reinstatement upon the expiration of 30 days after an offer of reinstatement from Respondent, he will receive \$950.00 per week (with any income from employment or work related benefits deducted);

- D. That any public contract currently held by Respondent be terminated forthwith and that Respondent be barred from participating in any public contract for three years in accord with Sections 8-109(A)(1) and (2) of the Human Rights Act. 775 ILCS 5/8-109(A)(1) and (2).
- E. That Respondent cease and desist from any discriminatory actions with regard to any of its employees and that Respondent, its managers, supervisors and employees be referred to the Department of Human Rights Training Institute (or any similar program specified by the Department) to receive such training as is necessary to prevent future civil rights violations, with all expenses for such training to be borne by Respondent; and,
- F. That Complainant's personnel file or any other file kept by Respondent concerning Complainant be purged of any reference to this discrimination charge and litigation;

HUMAN RIGHTS COMMISSION

ENTERED:

December 29, 2004

BY: _____
DAVID J. BRENT
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

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