



Governor John Kasich

OHIO CIVIL RIGHTS COMMISSION

IN THE MATTER OF:

Arthur Johnson

Complainant,

Complaint No. 11-EMP-TOL-34049

v.

Lucas County Board of Developmental Disabilities

Respondent.

OHIO CIVIL RIGHTS COMMISSION

G. Michael Payton
Executive Director

Commissioners
Leonard Hubert, Chairman
Stephanie Mercado, Esq.
Lori Barreras
William W. Patmon, III
Tom Roberts

ADMINISTRATIVE LAW JUDGE'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS

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Arthur Johnson
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Complainant

ALJ'S REPORT

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Ohio Civil Rights Commission

Governor
John Kasich

Board of Commissioners
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May 29, 2014

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Respondent

Arthur Johnson
1981 North Superior Street
Toledo, OH 43611
Complainant

Re: Arthur Johnson v. Lucas County Board of Developmental Disabilities
11-EMP-TOL-34049

Attached is a copy of the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommendation(s) ALJ's Report). You may submit a Statement of Objections to the ALJ's Report within twenty three (23) days from the mailing date of this report. A request to appear before the Commission must also be submitted by this date.

Pursuant to Ohio Admin. Code § 4112-1-02, your Statement of Objections must be **received** by the Commission no later than **June 23, 2014**. *No extension of time will be granted.*

Any objections received after this date will be untimely filed and cannot be considered by the Ohio Civil Rights Commission.

*Please send the original Statement of Objections to: **Desmon Martin, Director of Enforcement and Compliance, Ohio Civil Rights Commission, State Office Tower, 5th Floor, 30 East Broad Street, Columbus, OH 43215-3414.** All parties and the Administrative Law Judge should receive copies of your Statement of Objections.*

FOR THE COMMISSION:

Desmon Martin / rb
Desmon Martin
Director of Enforcement and Compliance

Attachments

cc: Lori A. Anthony, Section Chief – Civil Rights Section / Sharon Tassie, Principal Assistant Attorney General / G. Michael Payton, Executive Director / Keith McNeil, Director of Operations and Regional Counsel / Stephanie Bostos-Demers, Chief Legal Counsel

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INTRODUCTION AND PROCEDURAL HISTORY

Arthur Johnson (Complainant) filed a sworn charge affidavit with the Ohio Civil Rights Commission (Commission) on September 9, 2010.

The Commission investigated the charge and found probable cause that Lucas County Board of Developmental Disabilities (Respondent) engaged in unlawful employment practices in violation of Revised Code Section (R.C.) 4112.02 (I).

The Commission attempted, but failed to resolve this matter by informal methods of conciliation. The Commission subsequently issued a Complaint on September 9, 2011.

The Complaint alleged that the Respondent discharged the Complainant in retaliation for having engaged in activity protected by R.C. 4112.02(I).

Respondent filed an Answer to the Complaint on September 8, 2011. Respondent admitted certain procedural allegations, but denied that it engaged in any unlawful discriminatory practices. Respondent also pled affirmative defenses.

A public hearing was held on September 26, 2012 at One Government Center, 640 Jackson Street, Toledo, Ohio 43604.

The record consists of the previously described pleadings; a transcript of the hearing (282 pages); exhibits admitted into evidence during the hearing; a post-hearing brief filed by the Commission on December 3, 2012, and the Respondent on December 20, 2012 and a reply brief filed by the Commission on January 2, 2013.

FINDINGS OF FACT

The following Findings of Fact are based, in part, upon the Administrative Law Judge's (ALJ) credibility assessment of the witnesses who testified before her in this matter. The ALJ has applied the tests of worthiness of belief used in current Ohio practice. For example, she considered each witness's appearance and demeanor while testifying. She considered whether a witness was evasive and whether his or her testimony appeared to consist of subjective opinion rather than factual recitation. She further considered the opportunity each witness had to observe and know the things discussed, each witness's strength of memory, frankness or lack of frankness, and the bias, prejudice, and interest of each witness. Finally, the ALJ considered the extent to which each witness's testimony was supported or contradicted by reliable documentary evidence.

1. Complainant filed a sworn charge affidavit with the Commission on September 8, 2010.
2. The Commission determined on July 26, 2011 it was probable Respondent had engaged in unlawful discrimination in violation of R.C. 4112.02(I).

3. The Commission attempted to resolve this matter by informal methods of conciliation. The Commission issued the Complaint after conciliation failed.
4. Respondent provides support and transportation services to developmentally disabled individuals.
5. Complainant was hired by Respondent in August of 2002 as a substitute vehicle operator.
6. Complainant was promoted first to bus monitor, then to a full-time vehicle operator.
7. Vehicle operators transport individuals with developmental disabilities from their homes to their workplaces and back home. (Tr. 17-19)

8. Respondent's vehicle operators are covered by a Collective Bargaining Agreement (CBA) between Respondent and the American Federation of State, County and Municipal Employees Local 3794.

9. Article 6, Section B of the CBA Discipline Procedure states "in all cases, where appropriate, principles of progressive and corrective discipline shall be followed, using written warnings and suspensions of appropriate length prior to discharge."
(Resp. Exh. H)

10. Progressive discipline is not restricted to separate tracks for different types of violations; all infractions are considered together when making discipline determinations.
(Tr. 132-133, 179-180)

11. The progression can be varied, and steps can be skipped or repeated. (Tr. 132-133)

12. The progressive discipline progression typically begins with a verbal warning, written warning, one-day suspension, three-day suspension, five-day suspension, ten-day suspension, and termination.

13. Counselings are not formal discipline but can be considered by human resources in evaluating the employees disciplinary history. (Tr. 140)

14. The Director of Human Resources or a designee conducts pre-disciplinary conferences where the discipline could lead to termination or suspension. (Tr. 222)

15. Pamela Dean Emech (Emech) was the Respondent's Director of Human Resources from March of 2007 through October 2011.

16. During Complainant's eight years with Respondent, Complainant was either counseled or disciplined thirty-two (32) times. Eighteen (18) counselings, three (3) reports of safety concerns, four (4) verbal warnings, one (1) written warning, and six (6) suspensions ranging from one day to ten days. (Respondent's Exh. M)

17. Complainant's twenty-seventh discipline was a five-day suspension for neglect of duty for being two minutes tardy on February 12, 2008.

18. Complainant's thirty-first discipline was a ten-day suspension for failure to maintain safe operation of a board vehicle on January 14, 2010. Complainant inadvertently failed to set the parking brake before leaving the bus and it rolled into another bus in his absence.

19. Steve Gardner (Gardner) is Respondent's morning transportation dispatch supervisor and fleet maintenance supervisor. (Tr. 154)

20. On the morning of July 15, 2010 Gardner received a call from Complainant that he was running late because he overslept.
21. Complainant's scheduled route time was 6:15 A.M. Complainant signed into work at 6:50 A.M., causing his route to start thirty minutes late. (Resp. Exh. I)
22. On July 15, 2010 Complainant received a notice of infraction and a neglect of duty, for being 35 minutes late to work. (Comm. Exh. 5)
23. A pre-disciplinary conference was held on August 23, 2010. (Comm. Exh. 12)
24. Mary Kutchenriter (Kutchenriter), Senior Human Resources Representative presided as the Hearing Officer. (Tr. 134)
25. In attendance at the pre-disciplinary conference was the Complainant, Complainant's union steward, David Dandino (Dandino), Ursula Akers (Akers) union vice-president, and Gardner. (Tr. 101, Comm. Exh. 12)

26. Prior to the pre-disciplinary conference, Dandio and Kutchenriter received the following documents from Gardner: Notice of Infraction, a copy of the A.M. sign-in sheet from 7/15/10, and a copy of the schedule for 7/15/10 indicating route 104's start time is 6:15 A.M. *Id.*

27. Referencing the A.M. sign-in sheet from 7/15/10, Dandino pointed out that on the day Complainant was disciplined for being thirty-minutes late for his shift, there were other vehicle operators who Gardner supervised who were two, three, or five minutes late. *Id.*

28. Dandino also pointed to Complainant's discipline history and stated that there were other examples of vehicle drivers who were 15 to 20 minutes late who never received discipline or counseling. *Id.*

29. Gardner was not aware of another employee that he supervised who was fifteen to twenty minutes late and had never received counseling or any other type of discipline. *Id.*

30. One of the tardy employees that Dandino referenced from the sign-in sheet did get a courtesy chat, counseling, and had a HIPPA situation, and at the time of the conference she was in the process of discipline. *Id.*
31. Both Gardner and Aker refused to mention the names of the employees during the conference.
32. Dandino was given the opportunity to finish highlighting the documents that he wanted to present later to provide documentation that others have been tardy but were not disciplined. *Id.*
33. Considerations in disciplinary determinations include the facts presented at the pre-disciplinary conference, the employee's past disciplinary history, other alternatives attempted with the employee, how similar employees in similar situations have been treated, and any mitigating circumstances. (Tr. 131, 178-179, 237)

34. As of July 15, 2010, Complainant had not remained discipline-free long enough to have two five-day suspensions and one ten-day suspension not to be considered according to the CBA. (Tr. 132-133)
35. After reviewing Kutchenriter's recommendation and consulting with Kutchenriter and Respondent's legal counsel, Emech determined that termination was appropriate.
36. On September 7, 2010 Emech wrote a memo to Complainant regarding the results of the pre-disciplinary conference. (Exhibit 11)
37. The memo stated in pertinent part that in consideration of the facts presented at Complainant's disciplinary hearing the charges were substantiated.
38. The memo further stated that in consideration of Complainant's extensive disciplinary record his termination was effective immediately.

39. Emech never delivered the memo to Complainant.
40. On September 9, 2010, Complainant, Akers, Dandino, and Ron Muraco (Muraco), union steward, were called by Emech to hear the determination resulting from the pre-disciplinary conference. (Tr. 101, Resp. Exh. 11)
41. Akers first met with Emech without Complainant and the other union representatives.
42. When Akers returned from meeting with Emech she informed Complainant that he was going to be terminated.
43. Instead of termination Complainant resigned from employment effective September 9, 2010. (Resp. Exhs. J and K)

CONCLUSIONS OF LAW AND DISCUSSION¹

All proposed findings, conclusions, and supporting arguments of the parties have been considered. To the extent that the proposed findings and conclusions submitted by the parties and the arguments made by them are in accordance with the findings, conclusions, and views stated herein they have been accepted; to the extent they are inconsistent therewith, they have been rejected. Certain proposed findings and conclusions have been omitted as not relevant or as not necessary to a proper determination of the material issues presented. To the extent that the testimony of various witnesses is not in accord with the findings therein, it is not credited.

1. The Commission alleged in the Complaint that Complainant was subject to different terms, conditions and privileges of employment, including termination, in retaliation for having engaged in activity protected by R.C. 4112.02(I).

¹ Any Finding of Fact may be deemed a Conclusion of Law, and any Conclusion of Law may be deemed a Finding of Fact.

2. These allegations provide, in pertinent part, that it shall be an unlawful discriminatory practice:
 - (I) For any person to discriminate in any manner against any other person because that person has opposed any unlawful discriminatory practice defined in this section or because that person has made a charge, testified, assisted or participated in any manner in any investigation, proceeding, or hearing under sections 4112.01 to 4112.07 of the Revised Code.
3. The Commission has the burden of proof in cases brought under R.C. Chapter 4112. The Commission must prove a violation of R.C. 4112.02(I) by a preponderance of reliable, probative, and substantial evidence. R.C. 4112.05(G) and 4112.06(E).
4. Federal case law generally applies to alleged violations of R.C. Chapter 4112. *Columbus Civ. Serv. Comm. v. McGlone* (1998), 82 Ohio St.3d. 569. Thus, reliable, probative, and substantial evidence means evidence sufficient to support a finding of unlawful discrimination and retaliation under Title VII of the Civil Rights Act of 1964.

5. Under Title VII case law, the evidentiary framework established in *McDonnell Douglas Co. v. Greene*, 411 U.S. 792, 5 FEP Cases 965 (1973) for disparate treatment cases applies to retaliation cases.
6. This framework normally requires the Commission to prove a *prima facie* case of unlawful retaliation by a preponderance of the evidence. The proof required to establish a *prima facie* case may vary on a case-by-case basis. *McDonnell Douglas, supra* at 802, 5 FEP Cases at 969.
7. To establish a *prima facie* case of retaliation, the Commission must establish that:
 - (1) Complainant engaged in a protected activity,
 - (2) Respondent was aware that the Complainant had engaged in that activity,
 - (3) Respondent took an adverse employment action against the Complainant, and
 - (4) There is a causal connection between the protected activity and adverse action.

Greer-Burger v. Temesi, 116 Ohio St.3d 324 at para. 13 citing *Canitia v. Yellow Freight Sys., Inc.* (C.A. 6, 1990)903 F.2d 1064, 1066²

² The Ohio Supreme Court holds that federal case law interpreting and applying Title VII is generally applicable to R.C. 4112.02 claims unless the statutory terms are distinguishable. *Genaro v. Cent. Transport, Inc.* (1999), 84 Ohio St. 3d. The Court's recent decision in *University of Texas Southwestern Medical Center v. Nassar*, 570 U.S. ___ (2013) is inapplicable to alleged violations of R.C. 4112.02(I).

The Court's rationale is premised on the amendments to the Civil Rights Act of 1991(1991 Act), 105 Stat. 1071 which overruled, in part, *Price Waterhouse v. Hopkins*, 490 U.S. 228 at 259 (1989). The

8. The establishment of a *prima facie* case creates a rebuttable presumption of unlawful discrimination. *Texas Dept. of Community Affairs v. Burdine*, 450 U.S. 248, 25 FEP Cases 113 (1981).

9. Once the Commission establishes a *prima facie* case, the burden of production shifts to Respondent to “articulate some legitimate, nondiscriminatory reason” for the employment action.³ *McDonnell Douglas, supra* at 802, 5 FEP Cases at 969.

amendments changed the causation standard for status-based discrimination but did not change the causation language of the anti-retaliation provision. The Court reasoned that since the legislature only amended Title VII’s status provision, there was no intent to eliminate the “but for causation” standard for the retaliation provision. Ohio law has not undergone similar changes. The language of section 2000e-2(m) is substantially different from R.C. 4112.02 (A). The causation standard announced in *Nassar* is narrow based not only on a strict construction of the statutory language but also on the following policy analysis:

“[L]essening the causation standard could also contribute to the filing of frivolous claims, which would siphon resources from efforts by employer[s], administrative agencies, and courts to combat workplace harassment.”
Id. Slip. Op. at 18.

R.C. 4112.08 mandates that “this chapter [4112] shall be construed liberally for the accomplishment of its purposes which is to eliminate discrimination in the state of Ohio. *Genaro v. Cent. Transp.*, 84 Ohio St. 3d 293 *Helmick v. Cincinnati Word Processing, Inc.* (1989), 45 Ohio St. 3d 131, 133, 543 N.E.2d 1212, 1215, *Kerans v. Porter Paint Co.* (1991), 61 Ohio St. 3d 486, 575 N.E.2d 428, *Collins v. Rizkana* (1995), 73 Ohio St. 3d 65, 652 N.E.2d 653.

To apply the *Nassar* analysis to R.C. 4112.02 (I) would result in an interpretation inconsistent with the legislative history of the law. It is a cardinal rule of statutory construction that a statute should not be interpreted to yield an absurd result. *Mishr v. Bd. of Zoning Appeals* (1996), 76 Ohio St.3d 238, 240, 1996 Ohio 400, 667 N.E.2d 365.

³ Although the burden of production shifts to Respondent at this point, the Commission retains the burden of persuasion throughout the proceeding. *Burdine, supra* at 254, 25 FEP Cases at 116.

The defendant’s burden is merely to articulate through some proof a facially non-discriminatory reason for the termination; the defendant does not at this stage of the proceedings need to litigate the merits of the reasoning, nor does it need to prove that the reason relied upon was bona fide, nor does it need to prove that the reasoning was applied in a nondiscriminatory fashion.

10. To meet this burden of production, Respondent must:

. . . “clearly set forth, through the introduction of admissible evidence,” reasons for its actions which, *if believed by the trier of fact*, would support a finding that unlawful discrimination was not the cause of the employment action.

St. Mary's Honor Center v. Hicks, 509 U.S. 502, 507, 62 FEP Cases 96, 103 (1993), quoting *Burdine, supra* at 254-55, 25 FEP Cases at 116, n. 8.

11. The presumption created by the establishment of a *prima facie* case “drops out of the picture” when the employer articulates a legitimate, nondiscriminatory reason for the employment action. *Hicks, supra* at 511, 62 FEP Cases at 100.

12. In this case, it is not necessary to determine whether the Commission proved a *prima facie* case. Respondent's articulation of a legitimate, nondiscriminatory reason for Complainant's discharge removes any need to determine whether the Commission proved a *prima facie* case, and the “factual inquiry proceeds to a new level of specificity.” *U.S. Postal Service Bd. of Governors v. Aikens*, 460 U.S. 711, 713, 31 FEP Cases 609, 611 (1983), quoting *Burdine, supra* at 255, 25 FEP Cases at 116.

13. Where the defendant has done everything that would be required of him if the plaintiff has properly made out a *prima facie* case, whether the plaintiff really did so is no longer relevant. *Id.* at 713, 31 FEP Cases at 611.

14. Respondent met its burden of production with the introduction of evidence that Complainant was terminated because of his disciplinary record, the number of times that Respondent refrained from formal discipline for Complainant, and the many opportunities that had already been extended to Complainant for improvement. (Tr. 181-184)

15. Respondent having met its burden of production, the Commission must prove that Respondent retaliated against Complainant because he engaged in protected activity.
Hicks, supra at 511, 62 FEP Cases at 100.

16. The Commission must show by a preponderance of the evidence that Respondent's articulated reason for Complainant's discharge was not the true reason, but was "a pretext for . . . [unlawful retaliation]." *Id.*, at 515, 62 FEP Cases at 102, quoting *Burdine, supra* at 253, 25 FEP Cases at 115.

[A] reason cannot be proved to be a "pretext for [unlawful retaliation]" unless it is shown *both* that the reason is false, *and* that . . . [unlawful retaliation] is the real reason. *Id.*, at 515.

17. Thus, even if the Commission proves that Respondent's articulated reason is false or incomplete, the Commission does not automatically succeed in meeting its burden of persuasion:

That the employer's proffered reason is unpersuasive, or even obviously contrived, does not necessarily establish that the . . . [Commission's] proffered reason of . . . [unlawful retaliation] is correct. That remains a question for the fact finder to answer . . . *Id.*, at 524.

18. Ultimately, the Commission must provide sufficient evidence for the fact finder to infer that Complainant was, more likely than not, the victim of unlawful retaliation.

The fact finder's disbelief of the reasons put forward by the defendant (particularly if disbelief is accompanied by a suspicion of mendacity) may together with the elements of the *prima facie* case, suffice to show intentional discrimination . . . [n]o additional proof is required. ⁴ *Hicks, supra* at 511 (emphasis added).

19. The Commission may indirectly challenge the credibility of Respondent's reason by showing that the sheer weight of the circumstantial evidence makes it "more likely than not" that the reason is a pretext for unlawful discrimination. *Texas, supra* at 1089.
20. This type of showing, which tends to prove that the reason did not *actually* motivate the employment decision, requires the Commission produce additional evidence of unlawful discrimination besides evidence that is part of the *prima facie* case. *Id.*

⁴Even though rejection of a respondent's articulated reason is "enough at law to *sustain* finding of discrimination, *there must be a finding of discrimination.*" *Hicks, supra* at 512.

21. Thus, even if the Commission proves that Respondent's articulated reasons are false, the Commission will not automatically prevail in establishing its burden of persuasion:

That the employer's proffered reason is unpersuasive, or even obviously contrived, does not necessarily establish that the [Commission's] proffered reason of [sex] is correct. That remains a question for the fact finder to answer... *Id.*, *supra*, at 524.

22. Pretext can be shown by proof of disparate treatment.

Mitchell v. Toledo Hosp., 964 F.2d 577, 583 (6th Cir. 1992).

23. The Commission must establish that the comparable was similarly situated to Complainant "in all *relevant* aspects" of employment. *Barry v. Noble Metal Processing, Inc.*, 276 Fed. Appx. 477, 480 (6th Cir. 2008), citing *Ercegovich v. Goodyear Tire & Rubber Co.*, 154 F. 3d 344, 352 (6th Cir. 1998) (internal quotation marks omitted).

To be deemed "similarly situated," the individuals with whom ... the [Complainant] seeks to compare ... [his] treatment must have dealt with the same supervisor, have been subject to the same standards and have engaged in the same conduct without such differentiating or mitigating circumstances that would distinguish their conduct or the employer's treatment of them for it. *Mitchell, supra* at 583

24. The Commission attempted to show that Respondent's reason for his final discipline was retaliatory by comparing records of vehicle operators who allegedly had similar disciplinary records but who had not filed charges of discrimination.

25. The Commission also alleges that prior to Complainant filing charges of discrimination Complainant's previous disciplines were not taken into account when human resources made discipline determinations.

26. The Commission's arguments are not persuasive.

27. The Complainant filed three discrimination charges prior to his termination: October 8, 2008, July 7, 2009, and May 24, 2010. (Tr. 69, Resp. Exh. A, B, & C)

28. On December 6, 2007, Complainant received a five-day suspension for being tardy (25 minutes late) before the Complainant filed the first charge of discrimination. (Resp. Exh. M [Results of Pre-Disciplinary Conference dated January 9, 2008])

29. The Complainant's reason for being tardy was because he had an exam the night before.
30. The results of the pre-disciplinary conference for the discipline decision by human resources was based in part on Complainant's disciplinary record.
31. On February 12, 2008 Complainant received a five-day suspension for being tardy (2 minutes late) before the Complainant filed the first charge of discrimination.⁵ (Resp. Exh. [Results of Pre-Disciplinary Conference dated April 9, 2008])
32. Complainant cited inclement weather as the reason for tardiness.
33. The findings from the pre-disciplinary conference informed Complainant that he had been previously warned about how unscheduled absences from work or tardiness, intentional or not, negatively impact the quality of services provided by Respondent.

⁵ Becky White was the supervisor who signed the February 12, 2008 Notice of Infraction.

34. The discipline decision by human resources was based in part on Complainant's disciplinary record:

(...) In view of these findings and the fact that you have three related tardiness incidents since May of 2007, one of which resulted in a five-day unpaid suspension, and in consideration of your current disciplinary record, I am imposing a five-day suspension without pay. (...)

35. After Complainant had filed all three charges he received a ten-day suspension for failure to maintain safe operation of a board vehicle on January 14, 2010.

36. Complainant failed to set the parking brake prior to exiting the bus on January 14, 2010.

37. As a result the bus rolled into the vehicle parked in front of it while a board employee and an individual served were on the bus. (Resp. Exh. M [Results of Pre-Disciplinary Conference March 12, 2010])

38. During Complainant's last disciplinary conference Gardner stated that he addressed tardiness as an infraction when it interfered with the scheduled route running on time.

39. Gardner was somewhat flexible if vehicle operators called five or ten minutes late with a valid excuse:

(...) "If I addressed each two minute late person, we would be in hearings all day." (...) (Resp. Exh. 12, p.2)

40. Complainant's reason for being late was that he overslept.
(Resp. Exh. I)

41. Emech's memo dated September 7, 2010 setting forth the results of the Pre-Disciplinary Conference regarding Complainant's infraction for tardiness on July 15, 2010, contained the same language regarding consideration of his discipline history in other previous disciplinary actions meted out to Complainant.

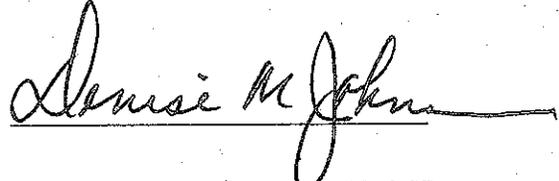
42. Beth Urton, Raymond Keith Morris, and Kris Friesner-Sullivan who are vehicle operators employed by Respondent before Complainant began his employment had fewer disciplines than Complainant. (See ALJ Addendum)⁶
43. Emech testified that in making the decision to terminate Complainant she looked at some mitigating circumstances; personal as well as medical.
44. Emech also testified that Complainant was given a lot of opportunities to improve, especially in the attendance area. (Tr. 184)
45. I found Emech's testimony credible.
46. Complainant received 18 counselings. Kris Friesner-Sullivan has the next highest number of counselings at 9 and she was employed by Respondent longer than Complainant.

⁶ The ALJ Addendum is a chart that reflects the dates contained in Respondent's Exhibits m, N, O, P, Q, R, S.

47. The Commission failed to meet its burden of proof to show that Complainant was terminated because he opposed what he believed to be discriminatory practices.

RECOMMENDATION

For all the foregoing reasons, it is recommended that the Commission issue a Dismissal Order in Complaint No. 11-EMP-TOL-34049.

A handwritten signature in black ink, reading "Denise M. Johnson", written over a horizontal line.

DENISE M. JOHNSON
CHIEF ADMINISTRATIVE LAW JUDGE

Date: May 29, 2014

DMJ/rb

Addendum

Lucas County Board of Developmental Disabilities

Arthur Johnson - Complaint No. 34039

Discipline by Type

Employee	Grace Talk/ Courtesy Chat	Counselings	Reports of Safety Concerns	Verbal Warnings	Written Warnings	Suspensions	Total Disciplines
Raymond Keith Morris	1	3	3	6	1	6	20
Kris Friesner Sullivan		9		4	5	3	21
Beth Urton		2		3	4	1	10
Arthur Johnson		18	3	4	1	6	32
Jeff Lewis	2	1		2			5

Discipline by Year

Employee	Date of Hire	94	95	96	97	98	99	00	01	02	03	04	05	06	07	08	09	10	Total
Raymond Keith Morris	01/23/1989	3		1									4		4	7	1		20
Kris Friesner Sullivan	07/06/1998						1	1		4	1	1	4	1	2	4	2		21
Beth Urton	12/07/1998												1	1	1	5	1	1	10
Arthur Johnson	08/26/2002									5	3	4	6	2	6	4		2	32
Jeff Lewis	05/05/2008															1	2	2	5



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August 15, 2014

Arthur Johnson
1981 North Superior St.
Toledo, Ohio 43611

RE: Arthur Johnson v. Lucas County Board of Developmental Disabilities
TOLB2(34049)09092010
22A-2010-04001C
Complaint No. 11-EMP-TOL-34049

The enclosed Order dismissing Complaint No. 11-EMP-TOL-34049 the above captioned matter was issued by the Ohio Civil Rights Commission at its meeting August 14, 2014.

This case is closed.

FOR THE COMMISSION

Desmon Martin/pjw

Director of Enforcement & Compliance
Ohio Civil Rights Commission

DM/pjw
Enclosure

cc: Denise M. Johnson, Chief Administrative Law Judge
Lori A. Anthony, Esq., Chief - Civil Rights Section



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August 15, 2014

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This case is closed.

FOR THE COMMISSION

Desmon Martin/pjw

Director of Enforcement & Compliance
Ohio Civil Rights Commission

DM/pjw
Enclosure

cc: Denise M. Johnson, Chief Administrative Law Judge
Lori A. Anthony, Esq., Chief – Civil Rights Section



John Kasich, Governor

IN THE MATTER OF:)
)
ARTHUR JOHNSON,) Complaint No. 11-EMP-TOL-34049
)
Complainant,)
)
vs.)
)
LUCAS COUNTY BOARD OF)
DEVELOPMENTAL DISABILITIES)
)
Respondent.)

FINAL ORDER

This matter comes before the Commission upon the Complaint and Notice of Hearing No. 11-EMP-TOL-34049; the official record of the public hearing held on September 26, 2012 before Denise M. Johnson, a duly appointed administrative law judge; the post-hearing briefs filed by the Commission and Respondent; the Administrative Law Judge's Report and Recommendation dated May 29, 2014; the Complainant's Objections to the Administrative Law Judge's Report and Recommendation; and Respondent's Response to Objections of Complainant.

The complaint alleges that the Complainant was retaliated against for engaging in

protected activity. After a public hearing, the Administrative Law Judge recommended that the Commission dismiss Complaint No. 11-EMP-TOL-34049. After careful consideration of the entire record, the Commission adopted the Administrative Law Judge's report at its public meeting on July 17, 2014. Therefore, the Commission incorporates the findings of fact, conclusions of law, and the recommendations contained in the Administrative Law Judge's report, as if fully rewritten herein, and dismisses the complaint against Respondent.

This ORDER issued by the Ohio Civil Rights Commission this 14th day of August, 2014.



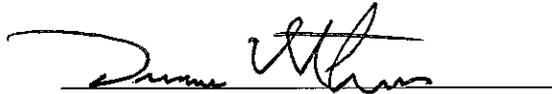
Commissioner, Ohio Civil Rights Commission

NOTICE OF RIGHT TO JUDICIAL REVIEW

Notice is hereby given to all parties herein that Revised Code Section 4112.06 sets forth the right to obtain judicial review of this Order and the mode and procedure thereof.

CERTIFICATE

I, Desmon Martin, Director of Enforcement and Compliance of the Ohio Civil Rights Commission, do hereby certify that the foregoing is a true and accurate copy of the Final Order issued in the above-captioned matter and filed with the Commission at its Central Office in Columbus, Ohio.



Desmon Martin
Director of Enforcement and Compliance
Ohio Civil Rights Commission

DATE: 8/15/2014