

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

RUTH WALTON,)
Complainant)
vs) Docket No. E-3786
G.C. MURPHY COMPANY,)
Respondent)

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

FINDINGS OF FACT

1. The Complainant herein is Ruth Walton, who resides at 500 Meldon Avenue, Donora, Pennsylvania.
2. Complainant is a Black female adult.
3. The Respondent herein is the G.C. Murphy Company, Fallowfield Avenue, Charleroi, Pennsylvania.
4. On October 3, 1967, Complainant applied for a full-time position with Respondent. (T - 8, 31, Exh. A)
5. Respondent offered Complainant a part-time position, and she was trained on October 7, 1967. (T - 8)
6. It is the practice of Respondent to hire personnel on a part-time basis until an evaluation of their performance can be made. If the employee's performance is acceptable, she will be offered a full-time position. (T - 59-60, 62, 79)
7. According to Respondent's Personnel Manager, Ms. Bruna Deambrogi, a part-time position is one that is temporary in nature, and a full-time position is one that is permanent in nature. The terms part-time and full-time do not relate to the actual hours worked in any given week. (T - 61)

8. Complainant was called to work by Respondent at various times from November, 1967, through March, 1970. The evidence does not reveal specifically how many days she worked during this period. However, Complainant recalls that in 1967 she worked from the day after Thanksgiving until sometime after Christmas; in 1968, financial records indicate she earned approximately \$200.00 from Respondent; in 1969, she earned \$215.20; and in 1970 she earned \$121.60. These figures reflect two to four weeks of employment in any given year. (T - 8, 14, Exh. 1)
9. Complainant was never offered a full-time position with Respondent. (T - 49, 58-60)
10. Complainant never formally terminated her position with Respondent. (T - 60)
11. In March, 1968, D.H. Dockerty was hired as a full-time employee in the store restaurant. Ms. Dockerty is a white female. (T - 34-35)
12. In September, 1968, M.E. Podany was hired as a full-time employee in the restaurant. Ms. Podany is a white female. (T - 34-35)
13. In November, 1969, D.L. Roberts was hired as a full-time employee in the store restaurant. Ms. Roberts is a white female. (T - 34-35)
14. In November, 1969, L.J. Bulger was hired as a full-time employee in the retail area of the store. Ms. Bulger is a white female. (T - 34-35)
15. Ms. Podany applied for employment with Respondent on August 19, 1968. She began part-time employment on August 27, 1968, and full-time employment on September 20, 1968. Ms. Podany is employed as a cook in the restaurant. She did not indicate she had restaurant experience on her application. Ms. Podany asked Ms. Deambrogi if she could work in the restaurant. Ms. Deambrogi had prior personal knowledge of her restaurant experience. (T - 62-64)

16. Complainant indicated on her application that she had had restaurant experience. Further, she told Ms. Deambrogi that she could work in the restaurant. When asked by the Commission's field representative why Respondent did not hire Complainant for the restaurant, Ms. Deambrogi stated that she did not feel that "she was the type." (T - 28, 36-38, 52, Exh. A)

17. Complainant states that she never received any criticism of her work. (T - 10)

18. On many occasions, Respondent failed in attempts to reach Complainant to advise her that work was available. (T - 50-51)

19. There were times when Complainant indicated she was unable to work when called, as she had other obligations. Complainant recalls only one such occasion, and Respondent recalls several. Complainant was often called the same day she was required to work. Respondent has indicated that other persons are often unavailable for work on any given day, and records are not usually kept regarding availability of part-time employees. Respondent admits that it does not know whether other persons who were on some occasions unavailable for part-time work subsequently became full-time employees. Therefore, Respondent's criticism of Complainant in this regard is unjustified. (T - 10-11, 46-47, 49, 51-52, 83-84, Exh. 2)

20. Respondent criticized Complainant for not being able to learn to use the electric cash register. However, these registers are used at check-out counters only; sales personnel must use them only as substitutes for the regular cashiers. Further, it is unclear what kind of training Complainant received, and evidence is lacking that she could not be trained. (T - 66-68, 80)

21. Respondent lacks an objective evaluation procedure for employees. There are no written standards or criteria

established to govern the evaluation of employees. Although the Personnel Manager at the times relevant to this Complaint had had over twenty years of experience in evaluating employees, she did not have the authority to make personnel decisions. Personnel decisions were made by the store manager, whose evaluations were not put in writing.

(T - 55-57, 65, 70-73)

22. Respondent employs one Black person out of approximately twentyfive full-time employees. The single Black is a woman who was originally trained the same day as the Complainant. (T - 68)

CONCLUSIONS OF LAW

Upon all of the evidence at the Public Hearing , and upon the foregoing Findings of Fact, the Pennsylvania Human Relations Commission makes the following Conclusions of Law:

1. The Complaint in this matter was properly filed by the Complainant.
2. At all times mentioned herein, the Pennsylvania Human Relations Commission had jurisdiction over Respondent and the subject matter of these proceedings.
3. The failure of Respondent to employ Complainant in a full-time position constituted a discriminatory act in violation of Section 5(a) of the Pennsylvania Human Relations Act. Said discrimination was manifested by:
 - a. failure of Respondent to consider Complainant for a position in Respondent's restaurant,
 - b. Respondent's consideration of subjective factors, such as inability to work a given day, as cause for refusal to hire, and
 - c. hiring of persons with less experience as a part-time employee in positions Complainant was qualified for.

IT IS, therefore, recommended, that the Commission enter an Order against the Respondent requiring that it cease and desist from any and all unlawful discriminatory practices concerning the Complainant, and requiring such affirmative actions as in the opinion of the Commission will effectuate the purposes of the Pennsylvania Human Relations Act.


E.E. Smith,

Hearing Commissioner


Elizabeth M. Scott,

Presiding Commissioner

COMMISSION'S DECISION

AND NOW, this _____ day of _____, 1973, upon the recommendation of the Hearing Commissioners, and upon all the evidence at the Public Hearing in this case, and upon consideration of the foregoing Findings of Fact and Conclusions of Law, the Pennsylvania Human Relations Commission finds and determines that the Respondent has engaged in unlawful discriminatory practices in violation of Section 5(a) of the Pennsylvania Human Relations Act, Act of October 27, 1955, P.L. 744, as amended, in failing to hire Complainant as a full-time employee.

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

RUTH WALTON,)
Complainant)
vs) Docket No. E-3783
G.C. MURPHY COMPANY,)
Respondent)

FINAL ORDER

AND NOW, this _____ day of _____, 1973, upon consideration of the foregoing Findings of Fact, Conclusions of Law, Commission's Decision, and pursuant to Section 9 of the Pennsylvania Human Relations Act, Act of October 27, 1955, P.L. 744, as amended, 43 P.S. 959, it is hereby:

ORDERED:

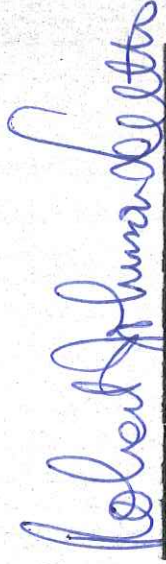
1. That, within thirty days from the date hereof, Respondent shall tender an offer to Complainant of full-time employment, in writing. Said offer shall afford Complainant ten days in which to accept or reject the offer.
2. That Respondent shall pay Complainant, as back wages, that amount Complainant would have earned from Respondent from September 20, 1968, until October 1, 1970, at which time she began other employment, less any moneys otherwise earned by Complainant during that period. The amount to be paid shall be subject to approval by the Commission.

3. That the Respondent shall confirm in writing, all actions taken pursuant to the directions of this Final Order and that copies of said written documents be submitted both to the Complainant and to the Pennsylvania Human Relations Commission within thirty days of the date of this Order.

PENNSYLVANIA HUMAN
RELATIONS COMMISSION



E.E. Smith, Chairman



Robert Johnson Smith,
Secretary