



unlawful practices complained of by conference, conciliation and persuasion. These endeavors were unsuccessful and on November 15, 1973 a Public Hearing was convened pursuant to Section 9 of the Human Relations Act. The Hearing Panel consisted of Commissioners Doris Leader, Chairperson of the Panel, and Dr. Robert Johnson Smith and Emily Sunstein. Sanford Kahn, Esquire, represented the Complainant and Christian Erb, Jr., Esquire, represented the Respondent.

The Hearing Panel, upon consideration of the transcript and the Brief submitted subsequent to the hearing by both parties, recommended that the Commission find in favor of the Complainant.

FINDINGS OF FACT

I. The Merits

1. The Complainant is Nettie M. Renoll, a female individual whose complaint at Docket No. E-3804 is the subject of the instant matter.
2. On March 10, 1970 Complainant was involved in an accident while driving a truck during the course of her employment with Beverage Transportation, Inc (Hereinafter Beverage).
3. The Respondent is an insurance company doing business in Pennsylvania and from February 18, 1970 until February 18, 1972 was the insurer for Beverage, insuring all drivers of trucks.
4. The Complainant completed a report of the accident on Respondent's Notice of Accident form on March 19, 1970 which was submitted to Respondent's home office. (R-8)
5. Respondent's insurance adjustor submitted a report of the accident to Respondent dated April 2, 1970 (C-2). The report indicated that the accident was "minor" and involved damage to guard rails caused when Complainant's truck skidded on a slippery road and it concluded that "the circumstances" surrounding the accident indicate that there was a case of liability on the part of Complainant.
6. Complainant's name was correctly listed in the report but the writer erroneously referred to her as "he."
7. Markel Service, Inc. (hereafter Markel) was the General Insurance Agent for the Respondent during the period relevant hereto.
8. Interstate Motor Carriers Agency (hereafter Interstate) served as a communicator between Beverage and Markel during the period relevant hereto.
9. On June 10, 1970, Markel notified Interstante that "Mr. Renoll was twenty-three years of age" . . . and "unless the

insured has some redeeming features to offer on this individual we would like confirmation that he is placed in a capacity other than as a driver of the insured equipment." (C-1)

10. A decision by Respondent to prohibit Complainant from driving a truck for Beverage awaited a response from Beverage as to whether they had "redeeming features to offer as to why Complainant should be permitted to continue. (C-1)

11. On June 12, 1970, Interstate notified Markel that "Nettie M. Renoll" was a woman and submitted in behalf of Beverage "redeeming features" of the strongest kind and urged Markel and the Respondent to permit Complainant to continue as a driver.

(C-3)

12. Respondent's decision to prohibit Complainant from driving a truck for Beverage was made with the knowledge that Complainant was a woman.

13. Respondent's explanation that this decision with regard to Complainant was based solely on the fact that the Complainant was under twenty-five and was consonant with Respondent's policy of taking a "much closer look (C-7) at a driver under twenty-five who is involved in an accident is belied by the record:

- a. During the relevant period, at least four male Beverage drivers under twenty-five had been involved in accidents for which they were deemed liable and had not been canceled by Respondent. Respondent offered no acceptable explanation for the disparity in treatment between these males and the Complainant, the sole female driver employed. Nor were males over twenty-five who had been involved in accidents ordered canceled by Respondent although many had been involved in accidents, some more than one. Complainant was the only driver canceled after an accident during the period relevant hereto. (N.T. 40-41)

1. Lendell Garber had an accident on February 18, 1969 when Beverage was insured by another company. Although Garber was only twenty-two when Respondent became the insurer for Beverage, he was not excluded. (N.T. 32)
2. Ron Shiley had an accident on June 3, 1970. The accident was insured under Beverage's collision insurance policy and was thus covered by another insurer. Although Shiley was twenty-three at the time of the accident, Respondent did not order Beverage to exclude him. Shiley had a second accident in March of 1971 when he was twenty-four. Again, he was not excluded by Respondent (C-8, N.T. 38)
3. James A. Kennedy had an accident in March of 1971 when he was twenty-four and a second accident two months after he had turned twenty-five for which claims of over two-thousand dollars were paid by Respondent. Yet he was not excluded by Respondent. (C-8, N.T. 37)
4. Dave Crawford was involved in an accident in July of 1971. Although he was twenty-three, he was not ordered excluded. (N.T. 39)
5. Respondent's contention that it was not aware of the ages of these four male drivers at the time of their accidents is rejected as not credible in view of the record as a whole including the Respondent's proclaimed policy of grave concern for sub-twenty-five drivers involved in accidents.
  - b. Respondent could offer no example of males under twenty-five being canceled after they had been involved in an accident, although such information was requested and subpoenaed by Complainant. (N.T. 40)
  - c. The explanation of Respondent's witness Arthur S. Wilson, that they do not actually consider "redeeming features" and that the inclusion of that language in the letter to Interstate (C-3) was "simply a method to pacify Markel's Sales Department" is rejected as not credible and in direct contradiction to the policy asserted to be Respondent's in the letter written by Respondent's secretary, Alex Steinhorn, and in particular, paragraph 6, (C-7), as follows:

"When considering whether or not we will insure a specific trucking company, we may have no initial objection to drivers under 25 years employed by that company, if we are otherwise reasonably satisfied as to their fitness. However, when a driver under 25 is later involved in an accident, it is our policy to take a much closer look at the driver."

d. After Complainant turned twenty-five she sought to return to work with Beverage as a driver, and Beverage sought her reinstatement with Respondent but Respondent refused to permit her reinstatement.

14. Respondent's decision not to continue to provide insurance coverage for Complainant was based on Complainant's sex, female.

15. Respondent's instruction to Beverage to relieve Complainant of all driving duties coerced and compelled Beverage to discharge Complainant.

16. Markel's conduct also coerced and compelled Beverage to discharge Complainant.

## II. Damages

1. From July 10, 1970, the date upon which her employment with Beverage was terminated as a result of the Respondent's unlawful conduct, until September 10, 1970, the Complainant was unable to obtain other employment.

2. From September 10, 1970 through February 18, 1972 the Complainant was employed as a school bus driver with the Willis Transportation Company, with the exception of the summer of 1971 when she was unemployed for all but a three week period when she worked in a sewing factory. In 1970 the Complainant earned \$560.00 from Willis. In 1971 she earned a total of \$1,556.40 from Willis and from the sewing factory. From January 1, through February 18, 1972 the Complainant earned \$350.00 from Willis.

3. In the 29 week period from June 6, 1969 through December 18, 1969 for which she submitted records, the Complainant earned a weekly average of \$136.04 (C-14, admitted by order of the

Commission). This \$136.04 weekly figure accurately represented her average weekly earning during the year immediately preceding her forced termination. (Note that the Complainant read into the record her actual weekly earnings for the period from June 6, 1969 to December 18, 1969. This totaled \$3,954.32, a weekly average of \$136.04. The Complainant testified that her weekly average for this period was \$99.30 (Tr 64). This was obviously an error in mathematics on her part. Donald Taylor testified that he heard her testimony as to the actual earnings over the 29 week period and he testified that this was representative of what she earned throughout the period preceding her termination.)

4. Kenneth Shaffer, who replaced the Complainant and commenced work on May 15, 1971, worked as a full-time employee. If the Complainant had not been unlawfully terminated she would have worked on a full-time basis beginning on May 15, 1971.

5. Kenneth Shaffer earned \$6,810.16 for the 34 weeks from May 15, 1971 through the end of the year, an average of \$200.29 a week. (C-13) He continued to earn that same approximate weekly amount during the first six months of 1972.

6. As a result of the Respondent's unlawful discrimination, the Complainant suffered loss of earnings of \$11,459.47, which was determined as follows:

- a. 1970 (July 10 - December 31) \$2,704.96 (\$3,264.96, what she would have earned from Respondent, minus \$560.00, what she actually earned elsewhere.)
- b. 1971 - \$7,702.48 (\$2,448.72, what she would have earned during the 18 weeks from January 1, 1971, plus \$6,810.16, what Shaffer earned and what she would have earned for the remainder of the year, minus \$1,556.40, what she actually earned elsewhere).

c. 1972 (January 1 - February 18) \$1,052.03  
(\$1,402.03, what she would have earned, minus \$350.00,  
what she actually earned elsewhere.)



CONCLUSIONS OF LAW

1. The Pennsylvania Human Relations Commission had and still has jurisdiction over the Complainant and Respondent and subject matter of the complaint under the Pennsylvania Human Relations Act, Act of October 27, 1955, P.L. 744, as amended.
- 2.- Respondent's conduct in coercing and compelling Beverage to discharge Complainant was in violation of Section 5(e) of the Pennsylvania Human Relations Act.
3. All facts of which Markel had knowledge relevant to the instant complaint are imputed to its principle, the Respondent.
4. Respondent is responsible and liable under the law for the conduct of its agency Markel.
5. Respondent is liable for the loss of earnings which the Complainant suffered as a result of the Respondent's unlawful discrimination from July 10, 1970 until February 18, 1972, the date upon which the Respondent ceased to insure Beverage.
6. The Commission has authority under Section 9 of the Pennsylvania Human Relations Act to order the Respondent to compensate the Complainant for her loss of earnings as a direct result of the Respondent's unlawful conduct, and to add simple interest at the rate of 6% per year to the amount.
7. Pursuant to the Commission's Guidelines and Considerations in Fixing Monetary Damages to Complainants, simple interest at the rate of 6% per year has been added to the amount of Complainant's loss of earnings, as follows:

a. 1970 - \$2,704.96 + \$162.30 = \$2,867.25  
b. 1971 - \$7,702.48 + \$462.15 = \$8,164.63  
c. 1972 - \$1,052.03 + \$ 63.12 = \$1,115.15

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Doris Leader,  
Presiding Commissioner

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Robert Johnson Smith,  
Hearing Commissioner

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Emily W. Sunstein,  
Hearing Commissioner



COMMONWEALTH OF PENNSYLVANIA  
Governor's Office

PENNSYLVANIA HUMAN RELATIONS COMMISSION

NETTIE M. RENOLL,                   :  
  Complainant                   :  
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TRANSIT CASUALTY INSURANCE       :  
COMPANY,                                Respondent                    :

Docket No. E-3804

FINAL ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 1974, upon consideration of the foregoing Findings of Fact and Conclusions of Law, and pursuant to Section 9 of the Pennsylvania Human Relations Act, cited supra, the Pennsylvania Human Relations Commission

ORDERS:

1. That the Respondent, Transit Casualty Insurance Company, in its decisions and conduct with regard to providing or renewing all terminated insurance coverage, shall cease and desist from discriminating on the basis of sex.
2. That the Respondent, Transit Casualty Insurance Company, shall pay the Complainant, Nettie M. Renoll, the sum of \$12,147.03 representing Complainant's loss of earnings as a result of Respondent's unlawful conduct, plus simple interest at the rate of 6% per year.
3. Any portion of this award which is not paid within 30 days from the date of this Order shall bear interest at the rate of 6% per year.

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