

COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA HUMAN RELATIONS COMMISSION

JUDITH ANN RICCO, )

Complainant)

-vs-

Docket No. E-4465

WALTER ATALSKI and THE SCHOOL BOARD  
OF THE CARMICHAELS AREA SCHOOL )  
DISTRICT,

Respondents)

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

FINDINGS OF FACT

1. Complainant herein is Judith Ann Ricco, residing at 102 Betty Boulevard, Carmichaels, Pennsylvania 15320.
2. Respondents herein are Walter Atalski, Superintendent of the Carmichaels Area School District, and the School Board of the Carmichaels Area School District, all having principal offices at 300 West Greene Street, Carmichaels, Pennsylvania 15320.
3. On June 10, 1971, Complainant advised Supervising Principal Marcinik of her pregnancy by letter and requested therein a leave for the months of September and October, 1971.
4. On June 21, 1971, at a regularly scheduled meeting of the Carmichaels Area School Board, the request of Complainant was approved.
5. On August 16, 1971, at a scheduled meeting of the Respondent School Board, a motion was made and passed which rescinded the action of the Board previously taken on June 21, 1971, and required that Complainant take one full year's leave of absence because of her pregnancy.

6. On October 18, 1971, Complainant having requested reinstatement as of December 1, 1971, the Respondent School Board refused Complainant's request.

7. On October 19, 1971, Respondent notified Complainant of its decision by letter.

8. On October 26, 1971, the Complaint in the instant matter was executed by Complainant and filed.

9. Point number 24 of the Carmichaels Area School District Policy Manual, effective July 1, 1968, requires that no more than two (2) maternity leaves will be granted to a teacher in the school system during her teaching career and further that once a teacher had been granted maternity leave, she had to be absent from teaching for period of one (1) year from the date such leave was granted.

10. Article XII, Section E, of the professional contract between the teachers and the Board of the Carmichaels Area School District effective July 1, 1971 adopted, without change, the maternity leave policy articulated in the 1968 Policy Manual previously referred to above.

11. Complainant herein was ready, willing and able to perform her teaching duties as of December 1, 1971.

12. Complainant's salary for that school year, had she been so employed, was \$6,900.00, measured from September 1, 1971 through August 31, 1972.

## CONCLUSIONS OF LAW

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

1. At all times herein mentioned, the Pennsylvania Human Relations Commission had and still has jurisdiction over Complainant and Respondents and the subject matter of the Complaint herein under the Pennsylvania Human Relations Act, Act of October 27, 1955, P. L. 744, as amended by Act number 56 of July 9, 1969, 43 P. S. § 955 (a), and under § 4 (b) of said Act.

2. 43 P. S. § 955 provides in part as follows: "It shall be an unlawful discriminatory practice, unless based upon a bona fide occupational qualification . . . (a) For any employer, because of the race, color, religious creed, ancestry, age, sex or national origin of any individual to refuse to hire or employ, or to bar or discharge from employment such individual, or to otherwise discriminate against such individual with respect to compensation, hire, tenure, terms, conditions or privileges of employment . . . "

3. The Pennsylvania Human Relations Commission had adopted Guidelines on Sex Discrimination, Section 1, one Pennsylvania Bulletin Number 24, page 707, (December 19, 1970); 2 C C H Employment Practices Guide, par. 27, 296, which were in effect at the time the instant discriminatory practice arose.

4. The employment of Complainant herein and her eventual dismissal for a period of one (1) year because of her pregnancy did not take into consideration the Complainant as an individual and did not consider her individual ability to perform the functions and duties of her job; rather, the decision of the Respondent School Board was based on general assumptions attributed to a given sex.

5. The policy of the Respondent School Board in requiring no more than two absences because of pregnancy and in requiring a one year's leave of absence because of pregnancy is in violation of Section 5(a) of the Pennsylvania Human Relations Act, supra.

6. The application of said policy to the instant Complainant was discriminatory under the above cited section of the Pennsylvania Human Relations Act and the amendments thereto.

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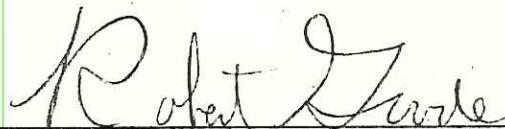
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BOARD OF THE CARMICHAELS AREA )  
SCHOOL DISTRICT,

Respondents)

COMMISSION'S DECISION

AND NOW, this 27th day of November, 1972, upon the recommendations of the Hearing Commissioners and upon and in consideration of the Findings of Fact and Conclusions of Law, the Pennsylvania Human Relations Commission finds and determines that Respondents, Walter Atalski and the School Board of the Carmichaels Area School District, have committed an unlawful discriminatory practice in violation of Section 5(a) of the Pennsylvania Human Relations Act, cited supra, in that they wrongfully enforced a discriminatory policy requiring a full year's leave of absence in the event of a pregnancy. It is, therefore, recommended, that the Commission enter an Order against Respondents requiring them to remedy the defect in the salary so paid. .



Robert Goode, Presiding Commissioner



John Wisniewski, Hearing Commissioner



Elizabeth M. Scott, Hearing Commissioner

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OF THE CARMICHAELS AREA SCHOOL )  
DISTRICT, )

Respondents )

FINAL ORDER

AND NOW, this 20th day of December, 1972, 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. Respondent shall pay Complainant the sum of FIVE THOUSAND ONE HUNDRED SEVENTY FIVE (\$5,175.00) DOLLARS, representing the amount Complainant would have earned had she been reinstated on December 1, 1971 through the termination of that school year on August 31, 1972.

2. The total amount of the instant award will bear interest at the rate of six (6%) per cent per annum, said interest beginning thirty (30) days from the date of this Order, if the Order has not been complied with by that time.

3. Respondents are directed to change their present maternity leave policy as articulated in their Policy Manual and also in their teacher's contract in order to comply with the Pennsylvania Human Relations Commission's regulations and copies of said changes and of any new policy adopted by Respondents, shall be mailed for approval of the Pennsylvania Human Relations Commission within thirty (30) days, to the Pennsylvania Human Relations

Commission, 100 N. Cameron Street, Harrisburg, Pennsylvania.

4. Respondents are directed to advise all present and incoming teachers, in writing within thirty (30) days, of the changes so made, and a copy of said notification shall be mailed to the Pennsylvania Human Relations Commission, 100 N. Cameron Street, Harrisburg, Pennsylvania.

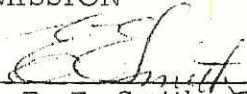
5. Respondents are directed to submit in writing, within thirty (30) days, to the Pennsylvania Human Relations Commission, 100 N. Cameron Street, Harrisburg, Pennsylvania, a statement of policy that, in granting of leave of absence, the Respondent will not discriminate on the basis of sex, race, color, ancestry, religion, or age.

6. Respondents are directed to notify all employees of the above policy and send a copy of the notice to the Pennsylvania Human Relations Commission at its Harrisburg Office within thirty (30) days of the date of this Order.

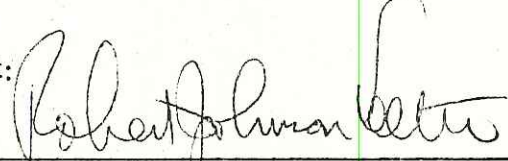
7. The Respondents are directed to post the Pennsylvania Human Relations Fair Employment Notice in an accessible, well-lighted place and properly maintain it.

PENNSYLVANIA HUMAN RELATIONS  
COMMISSION

By: \_\_\_\_\_

  
E. E. Smith, Chairman

Attest: \_\_\_\_\_

  
Dr. Robert Johnson Smith,  
Secretary

COMMONWEALTH OF PENNSYLVANIA  
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DISTRICT, )  
Respondents )

AMENDED FINAL ORDER

AND NOW, this 20th day of June 1973, upon consideration of the foregoing Findings of Fact and Conclusions of Law and the Petition submitted by the instant respondents, and pursuant to Section 9 of the Pennsylvania Human Relations Act, cited supra, the Pennsylvania Human Relations Commission

ORDERS:

1. Respondent shall pay Complainant the sum of FOUR THOUSAND FIVE HUNDRED NINETY ONE DOLLARS and 20/100---(\$4,591.20), representing the amount complainant would have earned had she been reinstated on December 1, 1971 through the termination of that school year on August 31, 1972.
2. All other paragraphs of the original Final Order rendered in the instant action under date of the 27th day of November, 1972 remain in full force and effect as if recited herein.

PENNSYLVANIA HUMAN RELATIONS  
COMMISSION

By: E. E. Smith  
E. E. Smith, Chairman

Attest:

Robert Johnson Smith  
Dr. Robert Johnson Smith,  
Secretary