

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION

DOROTHY McHENRY, :
 :
 Complainant :
 :
 vs. : DOCKET NO. H-2489
 :
 CHARLES J. FOCHT and :
 EDNA K. FOCHT, :
 :
 Respondents :

OPINION

The issue involved in this case is whether the Respondent violated Section 5(h)(1) and (3) of the Pennsylvania Human Relations Act, Act of October 27, 1955, P.L. 744, as amended, 43 P.S. §955(h)(1) and (3), by forcing the Complainant to vacate her apartment because she had a Black male visitor to the apartment.

Sections 5(h)(1) and (3) provide, in pertinent part:

It shall be an unlawful discriminatory practice ... (h) for any person to:

(1) Refuse to sell, lease, finance or otherwise to deny or withhold commercial housing from any person because of the race ... of any prospective owner, occupant or user of such commercial housing ...

(3) Discriminate against any person in the terms or conditions of selling or leasing any commercial housing ... because of the race ... of any present or prospective owner, occupant or user of such commercial housing.

In our opinion, George Baxter, a Black male visitor to Complainant's apartment, is a "user" of commercial housing within the meaning of 5(h)(1) and (3), thus the actions taken against the Complainant, predicated upon the race of her visitor, fall within the jurisdiction of the Commission.

Respondent has vigorously asserted that his conduct was not based upon the race of Complainant's visitor, but that "the reason for me asking Mrs. McHenry to move was purely an issue of the dog." (Tr. 61) However, the Complainant testified that the Respondent

told her that he had received complaints about her visitor and that she would have to get out. (Tr. 14) Respondent did not deny this, (Tr. 73) and in fact testified that other tenants had informed him of Complainant's visitor. (Tr. 63, 73, 74) Moreover, Respondent's own witness testified that he objected to a Black person on the premises because people in the neighborhood would complain. (Tr. 88, 90)

In addition, the Respondent did not inform Complainant that her possession of the puppy would result in her eviction or was the reason for her eviction. Several written notice to vacate were delivered to the Complainant. None set forth any reason for her eviction. (C-4, C-5, C-9) And, even after Complainant got rid of her dog, Respondent continued to seek her eviction. (Tr. 65)

Accordingly, we have concluded that the presence of the dog was but an excuse or pretext for Respondent's actions and that in fact, Complainant was evicted because she had a Black male visitor to her apartment which was located in a predominantly White neighborhood.

Complainant's testimony as to emotional stress and upset caused by Respondent's conduct, was limited, but, while we would have preferred a more detailed account, we are nevertheless persuaded that she suffered emotional distress sufficient to justify compensation of her actual medical expenses.

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

HISTORY OF THE CASE

On May 27, 1975, Dorothy McHenry filed a verified complaint before the Pennsylvania Human Relations Commission (hereinafter "the Commission") alleging that Charles J. Focht violated Section 5(h)(1) and (3) of the Pennsylvania Human Relations Act, Act of October 27, 1955, P.L. 744, as amended, 43 P.S. 955(h)(1) and (3) (hereinafter "the Act") by notifying her to vacate her apartment at 434 North Wyomissing Boulevard #2, Wyomissing, Pennsylvania, because she had a Black male visitor to the apartment. On June 18, 1975, Ms. McHenry filed an amended complaint alleging that Charles J. Focht and Edna K. Focht took the aforesaid actions because of her sex, female and her previous handicap or disability, mental illness, as well as because of a Black male visitor to the apartment. Said amended complaint further alleged that Charles J. Focht and Edna K. Focht took retaliatory action by notifying Ms. McHenry that the rental for said apartment would increase an additional forty-eight dollars (\$48.00) per week for each week she remained on the premises.

Commission staff conducted an investigation of said complaint, determined that there was probable cause to credit the allegations therein and endeavored to eliminate the unlawful

practice complained of by conference, conciliation and persuasion. Conciliation failing, a public hearing on the merits of said complaint was convened on March 15, 1976, in Reading, Pennsylvania before Commissioners Doris M. Leader, Robert Johnson Smith and Consuelo R. Jordan. Katherine H. Fein, Esquire, was present as legal advisor to the Hearing Panel. The case in support of the Complaint was presented by Thomas F. Baker, Esquire. Charles J. Focht appeared without counsel in his own behalf. Edna K. Focht did not appear. Upon motion of Mr. Baker, the Complaint was amended to allege a violation of Section 5(d) of the Act.

Upon consideration of the testimony and other evidence presented at hearing, the Hearing Panel recommends that the Commission find in favor of the Complainant.

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FINDINGS OF FACT

1. Complainant herein is Dorothy McHenry, a White female, residing at 2164 Highland Avenue, Mount Penn, Pennsylvania 19606. (tr. 9)
2. Respondents herein are Charles J. Focht and Edna K. Focht, husband and wife, who reside at 434 North Wyomissing Boulevard, Wyomissing, Pennsylvania and are the owners and lessors of ten (10) residential apartment units located at that address, including the premises known as 434 North Wyomissing Boulevard, #2. (Tr. 59)
3. On April 19, 1975, Complainant entered into an oral lease with Respondent Charles J. Focht for the premises known as 434 North Wyomissing Boulevard, #2 (hereinafter "apartment") at a rental of forty -eight dollars (\$48.00) per week, plus a security deposit of forty-eight dollars (\$48.00). (Tr. 10, 59, 60)
4. Respondent Charles J. Focht had a policy of not permitting his tenants to have pets, but this policy was not consistently enforced. (Tr. 12, 60)
5. Respondent Charles J. Focht informed Complainant of his policy forbidding tenants to have pets, however, on May 3, 1975, when Complainant brought a puppy to her apartment, Respondent did not object and agreed to permit her to keep the puppy until she was able to find another home for it. (Tr. 13, 40, 60)

6. From April 19, 1975, through May 24, 1975, Complainant's rent was fully paid and up-to-date. (C-1, C-2, C-3, C-4)
7. On the evening of May 11, 1975, George Baxter, a Black male, visited the Complainant at her apartment. (Tr. 14, 46)
8. Goerge Baxter visited the Complainant in the evening at her apartment on several occasions after May 11, 1975. (Tr. 15,46)
9. Respondent was told about Complainant's Black male visitor by other tenants. (Tr. 63, 73, 74)
10. Respondent Charles J. Focht objected to the Complainant having a Black male visitor because he feared the people in the neighborhood, which was predominantly White, would complain. (Tr. 88, 90, C-23)
11. On May 12, 1975, Respondent Charles J. Focht told the Complainant that he had received complaints about her visitor and that she would have to get out. (Tr. 14)
12. On May 19, 1975, Respondent Charles J. Focht notified the Complainant in writing to vacate her apartment within seven (7) days; said notice did not set forth the reasons why she was being notified to vacate. (C-4)
13. On the advice of counsel, Complainant did not vacate her apartment within seven (7) days (Tr. 20)
14. On May 24, 1975, Respondent Charles J. Focht notified the Complainant in writing that her weekly rental of \$48.00 would be increased by an additional \$48.00 each week she remained on the premises or that she could vacate without notice. (C-5)
15. On or about May 25, 1975, Respondent Charles J. Focht informed Complainant that he was getting a truck and was going to move her out of her apartment. (Tr. 21)
16. On May 28, 1975, the electricity to Complainant's apartment was turned off. (Tr. 51, C-6, C-19)
17. On June 12, 1975, Complainant received a note from Respondent Charles J. Focht, written on a rent receipt, notifying her that her rent was not paid, that her thirty (30) day notice

to quit had expired, and that the utilities would be cut off and the apartment padlocked. (Tr. 30, C-9)

18. Complainant never received a notice to quit the apartment within thirty (30) days. (Tr. 42)

19. Respondent Charles J. Focht took the actions set forth in Paragraphs 12 and 14 through 17 to force Complainant to vacate her apartment. (Tr. 65, 69, 113)

20. Respondent did not inform the Complainant that her possession of the puppy was the reason for seeking to evict her, nor did the Respondent inform Complainant that her keeping the puppy might result in her being notified to vacate the apartment.

21. Complainant removed the puppy from her apartment on or about June 1, 1975, when she found another home for it elsewhere. (Tr. 41)

22. Respondent continued to seek Complainant's eviction after she had gotten rid of the puppy. (Tr. 65)

23. As a result of the actions of Respondent Charles J. Focht, George Baxter felt it necessary to refrain from visiting Complainant at her apartment. (Tr. 46)

24. From May 24, 1975 through June 20, 1975, Complainant paid the Respondent a total of \$192.00 in rental, amounting to \$48.00 per week. (C-7, C-8, C-9)

25. Complainant vacated her apartment on June 20, 1975. (Tr. 37, 38)

26. Respondent Charles J. Focht notified Complainant to vacate her apartment and took action to force her removal from her apartment, as set forth in Paragraphs 12 and 14 through 17, because she had a Black male visitor to her apartment and not because she was keeping a puppy in the apartment.

27. The actions of Respondent Charles J. Focht, set forth in Paragraphs 12 and 14 through 17, caused Complainant severe emotional stress and upset and required her to seek medical attention. (Tr. 33-36, 47)

28. The actions of Respondent Charles J. Focht in threatening to throw Complainant's bicycle in the garbage, squirting her with water from a hose, falsely accusing her of harboring a criminal and otherwise making intimidating threats and statements, for the purpose of forcing her to vacate her apartment because she had a Black male visitor, caused the Complainant severe emotional stress and upset and required her to seek medical attention. (Tr. 25, 26, 43)

29. Complainant incurred medical expenses in the amount of \$164.94 (one hundred sixty-four dollars and ninety-four cents) for the treatment of emotional strain and upset caused by the conduct of Respondent Charles J. Focht. (Tr. 33-36, C-13, C-14, C-15)

30. Complainant incurred moving expenses in the amount of \$95.00 (ninety-five dollars) in vacating her apartment. (Tr. 32-33, C-10, C-11, C-12)

31. On June 20, 1975, Respondent Charles J. Focht demanded in writing from Complainant the payment of delinquent rent in the amount of \$432.00 (four hundred thirty-two dollars). (Tr. 36, C-17)

32. By letter dated July 19, 1975, Respondent Charles J. Focht demanded from Complainant the payment of delinquent rent in the amount of \$632.00 (six hundred thirty-two dollars). (Tr. 38, C-18)

33. Respondent's demands for the payment of delinquent rent set forth in Paragraphs 31 and 32, were part of Respondent's continuing actions to force Complainant to vacate her apartment because she had a Black male visitor to the apartment.

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 Respondents :

CONCLUSIONS OF LAW

1. The Pennsylvania Human Relations Commission has jurisdiction over the Complainant, the Respondent and the subject matter of the instant Complaint, under the Pennsylvania Human Relations Act, Act of October 27, 1955, P.L. 744, as amended, 43 P.S. § 951 et seq.

2. The actions of Respondent Charles J. Focht in notifying the Complainant to vacate her apartment within seven (7) days, increasing Complainant's rent by \$48.00 each week she remained in her apartment, threatening to cut off her utilities and padlock her apartment, because she had a Black male visitor to the apartment, constitute a denial of commercial housing because of the race of an occupant or user of such commercial housing in violation of Section 5(h)(1) of the Act and constitute discrimination in the terms or conditions of leasing commercial housing because of the race of an occupant or user of such commercial housing in violation of Section 5(h)(3) of the Act.

3. The actions of Respondent Charles J. Focht in demanding payment of an additional \$432.00 and \$632.00 in rent from the Complainant because she had a Black male visitor to the apartment constitute a denial of commercial housing in violation of Section 5(h)(1) of the Act and constitute discrimination in the terms and conditions of leasing commercial housing in violation of Section 5(h)(3) of the Act.

4. The Pennsylvania Human Relations Commission has authority under Section 9 of the Act to order the Respondent to compensate the Complainant for damages she suffered as a result of Respondent's unlawful discriminatory conduct.

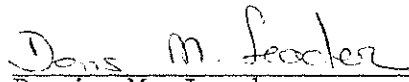
5. There is insufficient evidence to find that Respondent's engaged in an unlawful discriminatory practice because of the Complainant's sex, female, or previous handicap or disability, mental illness, and there is insufficient evidence to find that Respondents engaged in an unlawful discriminatory practice in violation of Section 5(d) of the Act.


6. There is insufficient evidence to show that Respondent Edna K. Focht committed an unlawful discriminatory practice in violation of the Act, and the Complaint against her should be dismissed, except insofar as she is a necessary party to the provisions of adequate relief for the Complainant.

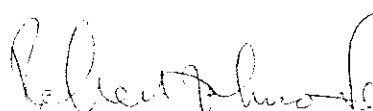
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RECOMMENDATIONS OF THE HEARING COMMISSIONERS

AND NOW, to wit, this 22nd day of August 1976, upon consideration of all the evidence presented at public hearing on the instant complaint, the arguments of counsel and the proposed History of the Case, Findings of Fact, Conclusions of Law, the Hearing Commissioners recommend to the entire Commission that an Order be entered against Respondent Charles J. Focht finding him in violation of Sections 5(h)(1) and (3) of the Pennsylvania Human Relations Act and providing appropriate relief. The Hearing Commissioners further recommend that the Complaint against Edna K. Focht be dismissed except insofar as she is a necessary party to the provision of adequate relief for the Complainant.


Doris M. Leader
Presiding Commissioner


Consuelo Rodriguez Jordan
Hearing Commissioner


Robert Johnson Smith
Hearing Commissioner

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION

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Complainant :
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vs. : DOCKET NO. H-2489
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CHARLES J. FOCHT and :
EDNA K. FOCHT, :
:
Respondents :

COMMISSION'S DECISION

AND NOW, to wit, this 22nd day of August 1976, upon the recommendation of the Hearing Commissioners and upon consideration of all the evidence presented at the Public Hearing in this case and the History of the Case, Findings of Fact and Conclusions of Law, the Pennsylvania Human Relations Commission hereby finds and determines that the Respondent Charles J. Focht engaged in an unlawful discriminatory practice in violation of Sections 5(h)(1) and (3) of the Pennsylvania Human Relations Act, Act of October 27, 1955, P.L. 744, as amended, in that Respondent Charles J. Focht notified the Complainant Dorothy McHenry to vacate her apartment at 434 North Wyomissing Boulevard, #2, Wyomissing, Pennsylvania within seven (7) days, increased Complainant's rent \$48.00 each week she remained in her apartment, threatened to cut off her utilities and padlock her apartment, cut off her electricity and took other actions to force her to vacate her apartment, because she had a Black male visitor to the apartment.

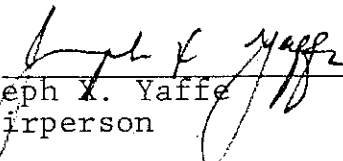
The Pennsylvania Human Relations Commission further finds and determines that the Respondent Charles J. Focht engaged in an unlawful discriminatory practice in violation of Section 5(h)(1) and (3) of the Pennsylvania Human Relations Act in that Respondent Charles J. Focht demanded payment of an additional \$432.00 and \$632.00 in rent from the Complainant because she had a Black male visitor to her apartment.

The Pennsylvania Human Relations Commission further finds and determines that the Complainant Dorothy McHenry sustained damages in the amount of \$164.94 in medical expenses for the treatment of emotional distress caused by Respondent Charles J. Focht's unlawful discriminatory conduct, and in the amount of \$95.00 in moving expenses for vacating the apartment as a result of Respondent Charles J. Focht's unlawful discriminatory conduct.

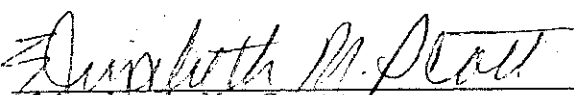
The Pennsylvania Human Relations Commission further finds and determines that there is insufficient evidence to find that Respondent engaged in an unlawful discriminatory practice because of the Complainant's sex, female, or previous handicap or disability, mental illness, and that there is insufficient evidence to find that Respondents engaged in an unlawful discriminatory practice in violation of Section 5(d) of the Act.

The Pennsylvania Human Relations Commission further finds and determines that the Complaint against Edna K. Focht be dismissed except insofar as Edna K. Focht is a necessary party to the provision of adequate relief to the Complainant.

PENNSYLVANIA HUMAN RELATIONS COMMISSION

By: 
Joseph X. Yaffe
Chairperson

ATTEST:


Elizabeth M. Scott
Secretary

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION

DOROTHY McHENRY, :
Complainant :
vs. : DOCKET NO. H-2489
CHARLES J. FOCHT and :
EDNA K. FOCHT, :
Respondents :

FINAL ORDER

AND NOW, to wit, this 31st day of August 1976,
upon consideration of the foregoing Findings of Fact, Conclusions
of Law and 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. §§ 951 et seq., the Pennsylvania Human Relations
Commission hereby

ORDERS:

1. Respondent Charles J. Focht shall cease and desist
from denying or withholding commercial housing from any person be-
cause of the race of any owner, occupant or user of such commercial
housing and from discriminating against any person in the terms or
conditions of leasing any commercial housing because of the race of
any present or prospective occupant or user of such commercial
housing.
2. Respondent Charles J. Focht shall pay to the Complain-
ant Dorothy McHenry the sum of \$259.94 (two hundred fifty-nine dol-
lars and ninety-four cents) to compensate her for the damages she
sustained as a result of Respondent's unlawful discriminatory con-
duct in forcing her to vacate the apartment at 434 North Wyomissing
Boulevard, #2, Wyomissing, Pennsylvania, plus interest at the rate
of six percent per annum from the date of this Order.

3. Respondent Charles J. Focht shall refrain from making any demand for payment or seeking to collect by any action at law or otherwise from the Complainant delinquent rent in the amount of \$432.00 or \$632.00 or any amount of rent claimed to be delinquent or claimed to be owing by the Complainant to the Respondent because of the increase in rent for the apartment at 434 North Wyomissing Boulevard, #2, herein found to be an unlawful discriminatory practice.

4. Respondents Charles J. Focht and Edna K. Focht shall immediately offer to the Complainant Dorothy McHenry the opportunity to rent the next available apartment at 434 North Wyomissing Boulevard, Wyomissing, Pennsylvania at a rental not to exceed the amount customarily charged for such apartment.

5. Payment of compensation for damages pursuant to Paragraph 2 shall be held in abeyance and shall be effective if and when the Supreme Court of Pennsylvania upholds the authority of the Pennsylvania Human Relations Commission to award compensatory damages in PHRC v. Zamantikis, No. 33, May Term, 1974.

6. The Complaint against Respondent Edna K. Focht shall be dismissed, except as set forth in Paragraph 3.

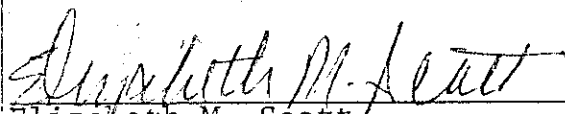
7. Respondents shall, within thirty (30) days from the date of this Final Order, submit to the Pennsylvania Human Relations Commission notice and proof that the actions herein set forth and required by this Final Order have been performed.

PENNSYLVANIA HUMAN RELATIONS COMMISSION

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(1) Refuse to sell, lease, finance or otherwise to deny or withhold commercial housing from any person because of the race ... of any prospective owner, occupant or user of such commercial housing ...

(3) Discriminate against any person in the terms or conditions of selling or leasing any commercial housing ... because of the race ... of any present or prospective owner, occupant or user of such commercial housing.

In our opinion, George Baxter, a Black male visitor to Complainant's apartment, is a "user" of commercial housing within the meaning of 5(h)(1) and (3), thus the actions taken against the Complainant, predicated upon the race of her visitor, fall within the jurisdiction of the Commission.

Respondent has vigorously asserted that his conduct was not based upon the race of Complainant's visitor, but that "the reason for me asking Mrs. McHenry to move was purely an issue of the dog." (Tr. 61) However, the Complainant testified that the Respondent

told her that he had received complaints about her visitor and that she would have to get out. (Tr. 14) Respondent did not deny this, (Tr. 73) and in fact testified that other tenants had informed him of Complainant's visitor. (Tr. 63, 73, 74) Moreover, Respondent's own witness testified that he objected to a Black person on the premises because people in the neighborhood would complain. (Tr. 88, 90)

In addition, the Respondent did not inform Complainant that her possession of the puppy would result in her eviction or was the reason for her eviction. Several written notice to vacate were delivered to the Complainant. None set forth any reason for her eviction. (C-4, C-5, C-9) And, even after Complainant got rid of her dog, Respondent continued to seek her eviction. (Tr. 65)

Accordingly, we have concluded that the presence of the dog was but an excuse or pretext for Respondent's actions and that in fact, Complainant was evicted because she had a Black male visitor to her apartment which was located in a predominantly White neighborhood.

Complainant's testimony as to emotional stress and upset caused by Respondent's conduct, was limited, but, while we would have preferred a more detailed account, we are nevertheless persuaded that she suffered emotional distress sufficient to justify compensation of her actual medical expenses.

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Upon consideration of the testimony and other evidence presented at hearing, the Hearing Panel recommends that the Commission find in favor of the Complainant.

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15. On or about May 25, 1975, Respondent Charles J. Focht informed Complainant that he was getting a truck and was going to move her out of her apartment. (Tr. 21)
16. On May 28, 1975, the electricity to Complainant's apartment was turned off. (Tr. 51, C-6, C-19)
17. On June 12, 1975, Complainant received a note from Respondent Charles J. Focht, written on a rent receipt, notifying her that her rent was not paid, that her thirty (30) day notice

to quit had expired, and that the utilities would be cut off and the apartment padlocked. (Tr. 30, C-9)

18. Complainant never received a notice to quit the apartment within thirty (30) days. (Tr. 42)

19. Respondent Charles J. Focht took the actions set forth in Paragraphs 12 and 14 through 17 to force Complainant to vacate her apartment. (Tr. 65, 69, 113)

20. Respondent did not inform the Complainant that her possession of the puppy was the reason for seeking to evict her, nor did the Respondent inform Complainant that her keeping the puppy might result in her being notified to vacate the apartment.

21. Complainant removed the puppy from her apartment on or about June 1, 1975, when she found another home for it elsewhere. (Tr. 41)

22. Respondent continued to seek Complainant's eviction after she had gotten rid of the puppy. (Tr. 65)

23. As a result of the actions of Respondent Charles J. Focht, George Baxter felt it necessary to refrain from visiting Complainant at her apartment. (Tr. 46)

24. From May 24, 1975 through June 20, 1975, Complainant paid the Respondent a total of \$192.00 in rental, amounting to \$48.00 per week. (C-7, C-8, C-9)

25. Complainant vacated her apartment on June 20, 1975. (Tr. 37, 38)

26. Respondent Charles J. Focht notified Complainant to vacate her apartment and took action to force her removal from her apartment, as set forth in Paragraphs 12 and 14 through 17, because she had a Black male visitor to her apartment and not because she was keeping a puppy in the apartment.

27. The actions of Respondent Charles J. Focht, set forth in Paragraphs 12 and 14 through 17, caused Complainant severe emotional stress and upset and required her to seek medical attention. (Tr. 33-36, 47)

28. The actions of Respondent Charles J. Focht in threatening to throw Complainant's bicycle in the garbage, squirting her with water from a hose, falsely accusing her of harboring a criminal and otherwise making intimidating threats and statements, for the purpose of forcing her to vacate her apartment because she had a Black male visitor, caused the Complainant severe emotional stress and upset and required her to seek medical attention. (Tr. 25, 26, 43)

29. Complainant incurred medical expenses in the amount of \$164.94 (one hundred sixty-four dollars and ninety-four cents) for the treatment of emotional strain and upset caused by the conduct of Respondent Charles J. Focht. (Tr. 33-36, C-13, C-14, C-15)

30. Complainant incurred moving expenses in the amount of \$95.00 (ninety-five dollars) in vacating her apartment. (Tr. 32-33, C-10, C-11, C-12)

31. On June 20, 1975, Respondent Charles J. Focht demanded in writing from Complainant the payment of delinquent rent in the amount of \$432.00 (four hundred thirty-two dollars). (Tr. 36, C-17)

32. By letter dated July 19, 1975, Respondent Charles J. Focht demanded from Complainant the payment of delinquent rent in the amount of \$632.00 (six hundred thirty-two dollars). (Tr. 38, C-18)

33. Respondent's demands for the payment of delinquent rent set forth in Paragraphs 31 and 32, were part of Respondent's continuing actions to force Complainant to vacate her apartment because she had a Black male visitor to the apartment.

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION

DOROTHY McHENRY, :
 :
 Complainant :
 :
 vs. : DOCKET NO. H-2489
 :
 CHARLES J. FOCHT and :
 EDNA K. FOCHT, :
 :
 Respondents :

CONCLUSIONS OF LAW

1. The Pennsylvania Human Relations Commission has jurisdiction over the Complainant, the Respondent and the subject matter of the instant Complaint, under the Pennsylvania Human Relations Act, Act of October 27, 1955, P.L. 744, as amended, 43 P.S. § 951 et seq.

2. The actions of Respondent Charles J. Focht in notifying the Complainant to vacate her apartment within seven (7) days, increasing Complainant's rent by \$48.00 each week she remained in her apartment, threatening to cut off her utilities and padlock her apartment, because she had a Black male visitor to the apartment, constitute a denial of commercial housing because of the race of an occupant or user of such commercial housing in violation of Section 5(h)(1) of the Act and constitute discrimination in the terms or conditions of leasing commercial housing because of the race of an occupant or user of such commercial housing in violation of Section 5(h)(3) of the Act.

3. The actions of Respondent Charles J. Focht in demanding payment of an additional \$432.00 and \$632.00 in rent from the Complainant because she had a Black male visitor to the apartment constitute a denial of commercial housing in violation of Section 5(h)(1) of the Act and constitute discrimination in the terms and conditions of leasing commercial housing in violation of Section 5(h)(3) of the Act.

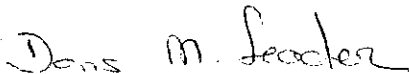
4. The Pennsylvania Human Relations Commission has authority under Section 9 of the Act to order the Respondent to compensate the Complainant for damages she suffered as a result of Respondent's unlawful discriminatory conduct.


5. There is insufficient evidence to find that Respondent's engaged in an unlawful discriminatory practice because of the Complainant's sex, female, or previous handicap or disability, mental illness, and there is insufficient evidence to find that Respondents engaged in an unlawful discriminatory practice in violation of Section 5(d) of the Act.

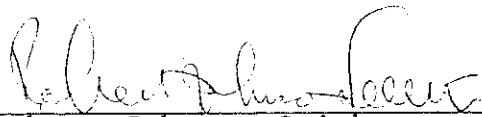
6. There is insufficient evidence to show that Respondent Edna K. Focht committed an unlawful discriminatory practice in violation of the Act, and the Complaint against her should be dismissed, except insofar as she is a necessary party to the provisions of adequate relief for the Complainant.

RECOMMENDATIONS OF THE HEARING COMMISSIONERS

AND NOW, to wit, this 22nd day of August 1976,
upon consideration of all the evidence presented at public hearing
on the instant complaint, the arguments of counsel and the proposed
History of the Case, Findings of Fact, Conclusions of Law, the Hear-
ing Commissioners recommend to the entire Commission that an Order
be entered against Respondent Charles J. Focht finding him in vio-
lation of Sections 5(h)(1) and (3) of the Pennsylvania Human Rela-
tions Act and providing appropriate relief. The Hearing Commis-
sioners further recommend that the Complaint against Edna K. Focht
be dismissed except insofar as she is a necessary party to the pro-
vision of adequate relief for the Complainant.


Doris M. Leader
Presiding Commissioner


Consuelo Rodriguez Jordan
Hearing Commissioner


Robert Johnson Smith
Hearing Commissioner

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION

DOROTHY McHENRY, :
 :
 Complainant :
 :
 vs. : DOCKET NO. H-2489
 :
 CHARLES J. FOCHT and :
 EDNA K. FOCHT, :
 :
 Respondents :

COMMISSION'S DECISION

AND NOW, to wit, this 22nd day of August 1976,
upon the recommendation of the Hearing Commissioners and upon con-
sideration of all the evidence presented at the Public Hearing in
this case and the History of the Case, Findings of Fact and Conclu-
sions of Law, the Pennsylvania Human Relations Commission hereby
finds and determines that the Respondent Charles J. Focht engaged
in an unlawful discriminatory practice in violation of Sections
5(h)(1) and (3) of the Pennsylvania Human Relations Act, Act of
October 27, 1955, P.L. 744, as amended, in that Respondent Charles
J. Focht notified the Complainant Dorothy McHenry to vacate her
apartment at 434 North Wyomissing Boulevard, #2, Wyomissing, Penn-
sylvania within seven (7) days, increased Complainant's rent \$48.00
each week she remained in her apartment, threatened to cut off her
utilities and padlock her apartment, cut off her electricity and
took other actions to force her to vacate her apartment, because
she had a Black male visitor to the apartment.

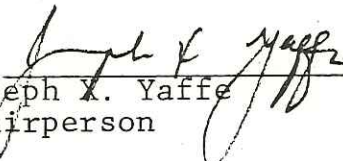
The Pennsylvania Human Relations Commission further finds
and determines that the Respondent Charles J. Focht engaged in an
unlawful discriminatory practice in violation of Section 5(h)(1)
and (3) of the Pennsylvania Human Relations Act in that Respondent
Charles J. Focht demanded payment of an additional \$432.00 and
\$632.00 in rent from the Complainant because she had a Black male
visitor to her apartment.

The Pennsylvania Human Relations Commission further finds and determines that the Complainant Dorothy McHenry sustained damages in the amount of \$164.94 in medical expenses for the treatment of emotional distress caused by Respondent Charles J. Focht's unlawful discriminatory conduct, and in the amount of \$95.00 in moving expenses for vacating the apartment as a result of Respondent Charles J. Focht's unlawful discriminatory conduct.

The Pennsylvania Human Relations Commission further finds and determines that there is insufficient evidence to find that Respondent engaged in an unlawful discriminatory practice because of the Complainant's sex, female, or previous handicap or disability, mental illness, and that there is insufficient evidence to find that Respondents engaged in an unlawful discriminatory practice in violation of Section 5(d) of the Act.

The Pennsylvania Human Relations Commission further finds and determines that the Complaint against Edna K. Focht be dismissed except insofar as Edna K. Focht is a necessary party to the provision of adequate relief to the Complainant.

PENNSYLVANIA HUMAN RELATIONS COMMISSION

By: 
Joseph X. Yaffe
Chairperson

ATTEST:


Elizabeth M. Scott
Secretary

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION

DOROTHY McHENRY, :
Complainant :
vs. : DOCKET NO. H-2489
CHARLES J. FOCHT and :
EDNA K. FOCHT, :
Respondents :

FINAL ORDER

AND NOW, to wit, this 31st day of August 1976,
upon consideration of the foregoing Findings of Fact, Conclusions
of Law and 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. §§ 951 et seq., the Pennsylvania Human Relations
Commission hereby

ORDERS:

1. Respondent Charles J. Focht shall cease and desist
from denying or withholding commercial housing from any person be-
cause of the race of any owner, occupant or user of such commercial
housing and from discriminating against any person in the terms or
conditions of leasing any commercial housing because of the race of
any present or prospective occupant or user of such commercial
housing.

2. Respondent Charles J. Focht shall pay to the Complain-
ant Dorothy McHenry the sum of \$259.94 (two hundred fifty-nine dol-
lars and ninety-four cents) to compensate her for the damages she
sustained as a result of Respondent's unlawful discriminatory con-
duct in forcing her to vacate the apartment at 434 North Wyomissing
Boulevard, #2, Wyomissing, Pennsylvania, plus interest at the rate
of six percent per annum from the date of this Order.

3. Respondent Charles J. Focht shall refrain from making any demand for payment or seeking to collect by any action at law or otherwise from the Complainant delinquent rent in the amount of \$432.00 or \$632.00 or any amount of rent claimed to be delinquent or claimed to be owing by the Complainant to the Respondent because of the increase in rent for the apartment at 434 North Wyomissing Boulevard, #2, herein found to be an unlawful discriminatory practice.

4. Respondents Charles J. Focht and Edna K. Focht shall immediately offer to the Complainant Dorothy McHenry the opportunity to rent the next available apartment at 434 North Wyomissing Boulevard, Wyomissing, Pennsylvania at a rental not to exceed the amount customarily charged for such apartment.

5. Payment of compensation for damages pursuant to Paragraph 2 shall be held in abeyance and shall be effective if and when the Supreme Court of Pennsylvania upholds the authority of the Pennsylvania Human Relations Commission to award compensatory damages in PHRC v. Zamantikis, No. 33, May Term, 1974.

6. The Complaint against Respondent Edna K. Focht shall be dismissed, except as set forth in Paragraph 3.

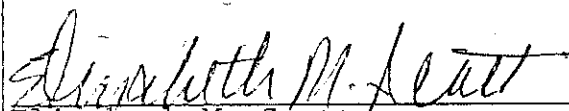
7. Respondents shall, within thirty (30) days from the date of this Final Order, submit to the Pennsylvania Human Relations Commission notice and proof that the actions herein set forth and required by this Final Order have been performed.

PENNSYLVANIA HUMAN RELATIONS COMMISSION

By: 

Joseph X. Yaffe
Chairperson

ATTEST:


Elizabeth M. Scott
Secretary