

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

DENNIS E. ROBINSON,
Complainant

vs.

PENNSYLVANIA BUREAU OF EMPLOYMENT
SECURITY, CHARLES P. CONNOLLY
DISTRICT MANAGER,
Respondent

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:
DOCKET NO. E-3902
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FINDINGS OF FACT, CONCLUSIONS OF LAW,
COMMISSION'S DECISION AND FINAL ORDER

FINDINGS OF FACT

1. Complainant herein is Dennis E. Robinson, who resides at 6047 Ellsworth Street, Philadelphia, Pennsylvania, 19143, and who is Black.

2. Respondent herein is the Pennsylvania Bureau of Employment Security, Charles P. Connolly, District Manager, a bureau within the Pennsylvania Department of Labor and Industry, located at 2048 Arch Street, Philadelphia, Pennsylvania.

3. Complainant has been employed continuously by the Respondent since July, 1955, to the present, and currently is classified as an Employment Security Specialist III assigned to Respondent's Reports and Analysis Section in the Philadelphia District Office.

4. On or about October 8, 1964, Complainant filed a complaint with the Pennsylvania Human Relations Commission which alleged that Respondent Bureau of Employment Security was engaging

in unlawful discriminatory practices because of the race of the Complainant. Said complaint was docketed by the Commission at number E-1807.

5. Said complaint was adjusted voluntarily by the Respondent in or about February, 1965 without a formal finding by the Pennsylvania Human Relations Commission issued pursuant to a public hearing or otherwise.

6. Thereafter, Complainant was reassigned to Respondent's Kensington Office, located at 1807 Huntington Street, Philadelphia, Pennsylvania, as an Employment Service Supervisor. Complainant served in that position for a period of two to three months.

7. In or about April, 1965, Complainant was reassigned to Respondent's Youth Opportunity Center Office, located at 1334 Bambridge Street, Philadelphia, Pennsylvania. Complainant did not request this reassignment nor was he consulted prior to it.

8. Complainant's assignment at the Youth Opportunity Center was as Assistant Manager, and while there he functioned as supervisor in charge of the office for a period of approximately two years while classified as a Manager I and later as a Manager II. Complainant's duties as acting supervisor of this office had previously been performed by individuals who were classified as Manager IV, and his successor also was a Manager IV.

9. Complainant's successful overall performance in this position was reflected by the improved operation of the office (which later became known as the "South Human Resources Development Center") and by a letter from members of that office to

the Respondent expressing concern over the decision not to appoint the Complainant as Manager of the office.

10. In approximately May, 1969, Complainant was detailed to work on the Job Bus, a transfer which was not requested by the Complainant. Complainant objected to this assignment as being an undesirable one, however Respondent took no action in response to this objection. Complainant performed the duties as Manager of the Job Bus for a period of approximately three to four months during the summer of 1969.

11. In approximately September, 1969, Complainant was assigned to Respondent's District Office for a period of about one month, after which he was reassigned to Respondent's Chester Office as the Assistant Manager. This assignment was not requested by the Complainant and, in fact, he registered a protest because of it. Despite this protest, Complainant was directed to perform the duties of Assistant Manager in that office for a period of approximately one to two months.

12. At some time between September and December, 1969, Complainant filed a complaint inquiry with the Human Relations Commission concerning the position of Employment Development Specialist, and informed Respondent's District Manager Charles P. Connolly of same. No formal complaint was filed or served upon Respondent as a direct result of this inquiry until nearly one year later.

13. In or about January, 1970, Complainant was reassigned to the Concentrated Employment Program (CEP), a program operated under the aegis of the Philadelphia Employment Development Corporation. Complainant had not requested this reassignment.

14. In February, 1970, Complainant was promoted to an Employment Security Manager III.

15. In or about May, 1970, Complainant was transferred out of CEP as a result of apparent difficulties that developed in the working relationship between Richard Olanoff, President of the Board of Directors of the Philadelphia Development Corporation and the Complainant. Complainant did not request this transfer.

16. Complainant's successful performance in this position was reflected by a petition signed by members of the staff at CEP requesting that the Complainant be permitted to return to his position there and indicating the improved operation of CEP under the Complainant's direction. Respondent took no action in response to this petition.

17. Following his removal from CEP, Complainant was transferred to the Job Bus in or about June, 1970, despite the fact that the Complainant did not request this assignment and that he had registered an objection to same with Charles P. Connolly, Respondent's District Manager.

18. Despite assertions by Respondent's executive staff members that Complainant experienced difficulties in working with his supervisors, this fact was never reflected in Complainant's Performance Evaluation Reports from 1964 through August, 1970. In fact, these reports all reflect that Complainant was rated either "Excellent" or "Very Good" in the categories of "Quality of Work" and "Relationship with People". Complainant's Overall Ratings for this period similarly are all "Excellent" and "Very Good".

19. In approximately September, 1970, Complainant was reassigned to the District Office, after which he was again reassigned to the Gatehouse in or about October of 1970, despite his dissatisfaction with such assignment. The appropriateness of Complainant's assignment to Gatehouse must be questioned, particularly in light of the fact that federal and state evaluations of the program there set forth that the position occupied by Complainant as Director of Gatehouse should be assigned to an individual with a Civil Service classification two steps lower than that held by Complainant.

20. On October 5, 1970, Complainant filed the instant complaint with the Pennsylvania Human Relations Commission at Docket No. E-3902. Said complaint was never served upon the Respondent.

An amended complaint at the same docket number was filed by the Complainant with the Pennsylvania Human Relations Commission on November 17, 1970, and was served upon the Respondent on December 4, 1970. A second amended complaint was filed by the Complainant on April 18, 1972.

21. On or about September 24, 1970, Complainant was reclassified from the position of Employment Security Manager III to Employment Security Specialist III, despite the fact that he had not requested such reclassification and, in fact, objected to same.

22. While serving at Gatehouse, and following the service of the amended complaint upon the Respondent, Complainant received a Performance Evaluation Report for the Period August 26, 1970 to December 21, 1970. This performance evaluation was considerably lower than Complainant's performance evaluations for prior years as set forth in Finding No. 18, above.

Said performance evaluation contained an overall evaluation in the lowest block of the "Fair" category, and contained a page of comments that were highly critical of the Complainant's performance. Complainant's Performance Evaluation Report for the period immediately prior to the report of December 21, 1970, contained an overall evaluation in the high block of the "Very Good" category.

23. Complainant filed an appeal from the Performance Evaluation Report of December 21, 1970 with the Performance Rating Appeal Board of the Bureau of Employment Security. Following a hearing on the appeal, the Board ordered that the Complainant's overall rating be changed from "Fair to Good" and that the comments contained on said Performance Evaluation Report be removed.

24. Complainant's Performance Evaluation Report for the period December 22, 1970 - April 2, 1971, was identical to the report of December 21, 1970 as corrected following the appeal.

25. In approximately April, 1971, Complainant was removed from the Gatehouse and transferred to the Reports and Analysis Section in Respondent's District Office. His duties there are not managerial in nature and his supervisory responsibilities are occasional and minimal. This transfer was not requested by the Complainant and it was made despite his objection to same. Complainant has continued to serve in this capacity and has not been reassigned to the Employment Service Section despite numerous requests by him that he be transferred.

26. A comparison of the number of occasions on which Complainant was transferred within the Bureau of Employment Security, according to Respondent's records, reveals that during the six (6) years prior to the filing of his complaint

in October, 1964, (1958 - 1964), Complainant received two (2) transfers and that during the six (6) years subsequent to the filing of that complaint (1965 - 1971) he received at least six (6) transfers. A comparison of Complainant's transfers during the latter period (1965 - 1971) with those received by all other Managers and Specialists in Respondent's Philadelphia District, according to Respondent's records, reveals that while Complainant was transferred six (6) times, four (4) individuals were transferred five (5) times, five (5) individuals were transferred four (4) times and thirty-nine (39) individuals were transferred three (3) or less times.

27. Complainant took the Civil Service Examination for the position of Manager IV and placed number three (3) on the list of Certification of Eligibles for the position. Despite this fact, Complainant has not been promoted to Manager IV. Respondent's promotion of individuals to the position of Manager IV, both before and during the period of Complainant's eligibility for that position, did not serve to discriminate against Complainant or to harrass him because of his race or because he had filed complaints with, or made inquiries to the Human Relations Commission.

CONCLUSIONS OF LAW

1. At all times herein mentioned, Complainant was a resident of the Commonwealth of Pennsylvania.

2. At all times herein mentioned Respondent Bureau of Employment Security was a bureau within the Department of Labor and Industry of the Commonwealth of Pennsylvania.

3. At all times herein mentioned, the Pennsylvania Human Relations Commission had and still has jurisdiction over the Complainant, Respondent and the subject matter of these proceedings.

4. The actions of the Respondent constituted harassment of and discrimination against the Complainant due to the fact that he had filed complaints with and made inquiries to the Pennsylvania Human Relations Commission concerning the Respondent.

5. The harassment of the Complainant by the Respondent was manifested in the following ways:

- a) Frequent transfers of the Complainant without justification or consultation with him.
- b) Reclassification of the Complainant from Manager III to Specialist III and a reassignment to duties that were outside of his area of expertise, training and proven abilities.
- c) Issuance of Performance Evaluation Reports to the Complainant, after the filing and service of the present complaint that were considerably lower than numerous earlier Performance Evaluation Reports.


6. Said acts of harassment and discrimination on the part of the Respondent, coupled with the fact that the Complainant continued to perform his assigned duties in a satisfactory manner throughout the entire period under consideration,

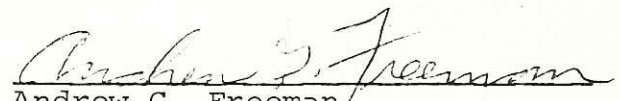
compel a conclusion that the Respondent has engaged in unlawful discriminatory practices against the Complainant in violation of Section 5 (d) of the Pennsylvania Human Relations Act, Act of October 27, 1955, P.L. 744 as amended, 43 P.S. Section 955 (d).

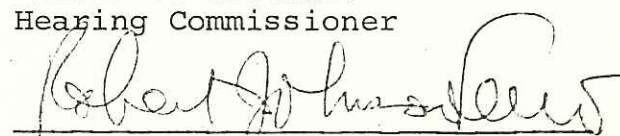
7. The Respondent's failure to promote Complainant to the position of Manager IV was not an act of harassment and discrimination as set forth above and, therefore, did not constitute an unlawful discriminatory practice in violation of the Pennsylvania Human Relations Act, supra.

8. The actions of the Respondent did not constitute a violation of Section 5 (a) of the Pennsylvania Human Relations Act, supra.

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 more specifically any acts of harassment directed at the Complainant with regard to job assignment, promotional opportunities, and all other terms, conditions or privileges of employment. It is further recommended that the Complainant be reinstated to the position of Manager III and that he be compensated with any amounts of money that he would have received had his transfer to Specialist III and job re-assignment not been effected. Finally, it is recommended that the Respondent be directed to transfer the Complainant from his present job assignment to one that will permit him to work in the managerial area for which he was trained and in which he has worked for his entire tenure at the Bureau of Employment Security prior to his most recent assignment to the Reports and Analysis Section of the Respondent's Philadelphia Office.


Alvin E. Echols
Presiding Commissioner


Andrew G. Freeman
Hearing Commissioner


Robert Johnson Smith
Hearing Commissioner

COMMISSION'S DECISION

AND NOW, the 26th day of February 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 (d) of the Pennsylvania Human Relations Act, Act of October 27, 1955, P.L. 744, as amended, in that by its conduct and actions it has engaged in a course of harassment towards the Complainant because of the fact that the Complainant had filed various complaints with and made various inquiries to the Human Relations Commission concerning the Respondent.

COMMONWEALTH OF PENNSYLVANIA

PENNSYLVANIA HUMAN RELATIONS COMMISSION

DENNIS E. ROBINSON
Complainant

vs.

PENNSYLVANIA BUREAU OF
EMPLOYMENT SECURITY,
CHARLES R. CONNELLY,
DISTRICT MANAGER,
Respondent

DOCKET NO. E-3902

FINAL ORDER

AND NOW, this 21st day of March, 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. Section 959, it is hereby

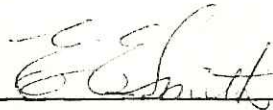
O R D E R E D :

1. That Respondent cease and desist from any acts of harassment against Complainant Dennis Robinson, including, but not limited to lowered Performance Evaluation Reports, transfers outside of the Complainant's area of expertise and experience and frequent transfers in job assignment.
2. That the Respondent, within 30 days of the date of this Order, reclassify the Complainant to the position of Manager III and reassign the Complainant to duties that are consistent with his past experience and performance in the area of managerial duties.
3. That the Respondent compensate the Complainant in the amount of any monies that the Complainant would have received had he not been reclassified from the position of Manager III to Specialist III, and that the Complainant receive the benefit

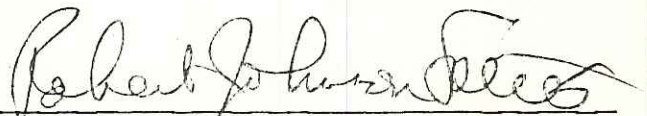
of any other compensation, privileges, or benefits that would have accrued to him had he not been reclassified from a Manager III to a Specialist III. This shall include, but is not limited to immediate eligibility for promotion to positions above that of Manager III.

4. That the Respondent shall confirm in writing all actions taken pursuant to the directives 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 30 days of the date of this Order.

PENNSYLVANIA HUMAN RELATIONS
COMMISSION



ATTEST:



Robert Johnson Smith
Secretary