

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA HUMAN RELATIONS COMMISSION

MICHAEL H. PATTERSON,
Complainant

v.

JONES & LAUGHLIN STEEL CORP.,
Respondent

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Docket No. E-20429

FINDINGS OF FACT

CONCLUSIONS OF LAW

OPINION

RECOMMENDATION OF HEARING PANEL

FINAL ORDER

FINDINGS OF FACT*

1. Michael H. Patterson ("Patterson") is an adult individual who resides at 134 Lisa Drive, Verona, Pennsylvania 15147. (S.F. 1)

2. Jones and Laughlin Steel Corporation is a Delaware corporation with a principal place of business located at LTV Steel Building, 25 West Prospect Avenue, Cleveland, Ohio 44115. (S.F. 2)

3. At the time of the alleged actions, the Respondent was Jones and Laughlin Steel Corporation, however, Jones and Laughlin Steel Corporation subsequently merged with Republic Steel and became LTV Steel Corporation ("LTV"), (Vol. 1 N.T. 29). For ease of identification, the remainder of this opinion shall refer to the Respondent as either "Respondent" or "LTV".

4. LTV is an employer of four (4) or more persons within the Commonwealth of Pennsylvania. (S.F. 3)

* To the extent that the Opinion which follows develops facts in addition to those here listed, such facts shall be considered to be additional Findings of Fact. The following abbreviations will be utilized throughout these Findings of Fact for reference purposes:

N.T. Notes of Testimony (Volume 1 & Volume 2)
S.F. Stipulations
S.E. Stipulation Exhibit
C.E. Complainant's Exhibit
R.E. Respondent's Exhibit
U.D. Ulicny Deposition
U.D.E. Ulicny Deposition Exhibit
B.D. Brillman Deposition
B.D.E. Brillman Deposition Exhibit
H.D. Halen Deposition
H.D.E. Halen Deposition Exhibit

5. On or about March 22, 1976, Patterson was hired by LTV to fill the position of laborer in LTV's Aliquippa Works facility. (S.F. 4; Vol. 1, N.T. 12)

6. Subsequently, Patterson became a second helper in the cast house unit of the blast furnace department at LTV's Aliquippa Works. (S.F. 5; Vol. 1, N.T. 13)

7. Generally, a blast furnace department makes iron. (Vol. 2, N.T. 26)

8. In the blast furnace area there are three large volume furnaces into which iron ore, coke, and a fluxing agent are placed and at an extremely high temperature such ingredients are melted to make iron. (Vol. 2, N.T. 26-28)

9. In a blast furnace, molten iron ore reaches the temperature of approximately 3,500 degrees. (Vol. 2, N.T. 28)

10. When a furnace is tapped and the molten iron ore is released, the molten material exits at a temperature of approximately 2700 degrees. (Vol. 2, N.T. 29)

11. Released molten iron ore is directed into a system of troughs on the floor of the cast house. Such troughs are approximately 30' long, 3' wide, and 4' deep. (Vol. 2, N.T. 30)

12. As the molten iron goes through these troughs, impurities, known as slag, are skimmed off the top and diverted into a different honeycombed network of trough runners. (Vol. 2, N.T. 30, 31)

13. At the end of the iron troughs, molten iron is collected in 200 ton capacity bottles, while at the end of slag runners, slag is collected in 18 ton capacity pots. (Vol. 2, N.T. 30)

14. Blast furnaces are approximately 180' high and 30' wide and have the capacity to release molten material approximately twice per day. (Vol. 1, N.T. 17, 28, 76)

15. Second helpers work primarily with all aspects of the movement of the molten slag from the point it is skimmed from the top of molten iron to approximately 120' away where the slag is collected in slag pots. (Vol. 2, N.T. 40-45)

16. Actual slag movement encompasses approximately 25%-30% of a second helper's duties. The remaining 70%-75% entails area cleanup and preparation for the next release of the furnaces. (Vol. 2, N.T. 44)

17. The entire cast house area is elevated approximately 25'-30' above ground level. (Vol. 1, N.T. 14; Vol. 2, N.T. 32). On either side and below the cast house, collection receptacles poised on railroad cars await the flowing iron and slag. (Vol. 2, N.T. 32)

18. Work in the cast house area is extremely dangerous as workers face a multitude of potentially serious injury causing hazards. (Vol. 1, N.T. 14, 15, 62-74, 77; Vol. 2, N.T. 31-34, 42, 53, 55, 63)

19. The most serious continual hazards faced by cast house workers are the unprotected open honeycombed troughs flowing with molten material which flows as hot as 2500 to 2600 degrees. (Vol. 2, 46, 63)

20. While assisting the slag to flow through the troughs to the slag pots, second helpers must stand 4' to 5' or closer to the molten slag to perform certain functions. (Vol. 2, 63)

21. On direct examination, Patterson testified that on March 3, 1978, he became dizzy at work. (Vol. 1, N.T. 21, S.F. 6)

22. On March 3, 1978, Patterson went to LTV's medical department, then home. (Vol. 1, N.T. 22)

23. On cross examination, Patterson testified that while on a bus going home, he had a seizure which resulted in his having been taken to Sewickley Valley Hospital. (Vol. 1, N.T. 86, 87)

24. Although Patterson's testimony adamantly denied having had a seizure at the hospital, the hospital record states, "In E.R. had typical grand mal seizure - Duration - 5 min." (S.E. 1)

25. Patterson's tendency to minimize his seizure condition can readily be seen by what he told hospital staff at the time of his admission: "Ph. states he felt dizzy today." (S.E. 1)

26. Patterson had a seizure on a bus of sufficient magnitude to result in his being taken to the hospital. (Vol. 1, N.T. 86-87)

27. Patterson's testimony again contradicted medical records both when Patterson testified that his first episode was March 3, 1978 and when he indicated he never bit his tongue or cheeks during an episode. (Vol. 1, N.T. 85, 89; S.E. 2)

28. Patterson admitted himself to Central Medical Health Services on March 9, 1978 and was later discharged on March 18, 1978. (S.F. 9; S.E. 2; Vol. 1, N.T. 23)

29. On Central Medical Health Services' discharge summary, the record indicates Patterson was admitted after his complaint of "fainting spells." Additionally, the record notes, "On 2 of the 3 episodes the patient has had incontinence of urine as well as laceration of the tongue and inner aspect of both cheeks." (S.E. 2)

30. On or about March 31, 1978, following Patterson's release from Central Medical Health Services, Patterson returned to work. (S.F. 11)

31. Patterson's doctor provided him with a certificate reflecting restrictions of no climbing or operating heavy machinery. (S.F. 10)

32. On April 25, 1978, Patterson reported to LTV's medical department with complaints of dizziness. (S.F. 12)

33. On April 25, 1978, LTV's nurse noted the discrepancy that Patterson's restrictions should prohibit him from working in the blast furnace area. (Vol. 1, N.T. 26)

34. On April 25, 1978, for the remainder of the day, Patterson was placed in the control room away from the blast furnace area. (Vol. 1, N.T. 26)

35. On April 26, 1978, Patterson was instructed that there were no jobs available for him in LTV's blast furnace because of his medical restrictions. (S.F. 13)

36. Patterson has not worked for LTV since April 25, 1978. (S.F. 14)

37. On March 10, 1978, Patterson began to see Dr. Thomas L. Ulicny, a neurologist associated with Pittsburgh Neurosurgery and Neurology Associates. (S.F. 15, U.D. 5)

38. Dr. Ulicny's history of Patterson's condition also reflects Patterson began having seizures as early as August, 1977. (U.D. 6)

39. Dr. Ulicny prescribed two anti-convulsant drugs in an effort to control Patterson's seizures: Dilantin and Phenobarbital. (U.D. 11)

40. Dr. Ulicny advised Patterson against such things as climbing, moving machinery, and generally doing anything that could be detrimental to himself or someone else. (U.D. 14)

41. Dr. Ulicny also indicated to Patterson that before he would lift his medical restrictions, Patterson had to be seizure free for at least 1 year. (U.D. 14, 15; Vol. 1, N.T. 104-105)

42. Dr. Ulicny recognized that a patient's truthfulness was critical to a determination regarding whether a patient was seizure free over a period of time. (U.D. 23)

43. When Dr. Ulicny saw Patterson on June 21, 1979, Patterson told Dr. Ulicny of 2 or 3 episodes of "daydreaming." (U.D. 16)

44. Patterson had also been instructed that state law prohibits his operation of motor vehicles for 12 months after his last documented seizure. (Vol. 1, N.T. 93; U.D.E. 1)

45. Patterson ignored this prohibition and actually had an accident where he wrecked his car while "daydreaming." Patterson thought the road curved, but it did not. (Vol. 1, N.T. 93, 98; U.D. 16)

46. Patterson lacked credibility both when his testimony directly conflicted with his doctors' medical records and when attempting to minimize the frequency and magnitude of his seizure disorder. (Vol. 1, 89-90, 98, 99, 103, 108, 118, 126, 127, 132)

47. On August 6, 1979, Dr. Ulicny once again certified that Patterson could return to work as long as his work did not involve operating dangerous machinery or climbing. (S.F. 16)

48. On August 6, 1979, Patterson reported to LTV in an effort to return to work. He was referred to the medical center where it was noted that his medical restrictions were continued. (S.F. 17)

49. On August 6, 1979, Patterson reported to the Blast Furnace and was not permitted to return to his second helper position. Patterson did not seek a position other than the second helper position. (S.F. 18)

50. On November 7, 1979, Patterson filed a PHRC complaint alleging that he was discriminatorily refused permission to return to work. (S.F. 19; S.E. 7)

51. This complaint resulted in a no-cause finding and a subsequent request for reconsideration was also denied. (S.F. 40, 48)

52. In mid November, 1979, Patterson reported to Dr. Ulicny that in early November, 1979, he had an episode while walking, during which he fell against the side of a building, striking his face and chipping a front tooth. (U.D. 18; U.D.E. 1; Vol. 1, N.T. 102)

53. In December, 1979, Dr. Ulicny continued to note restrictions on Patterson's medical certificates. (S.F. 20, 21)

54. By letter dated August 19, 1980, Dr. Ulicny released Patterson to return to work "in his previous job description." (S.F. 24; S.E. 11)

55. Subsequent to Patterson presenting Dr. Ulicny's ambiguous statement to LTV, Dr. Robert J. Halen, LTV's medical director, recommended that Dr. Ulicny be contacted to determine the meaning of Dr. Ulicny's comment that Patterson had "clearance to return to work in his previous job description." (H.D. 50-51; H.D.E. 1)

56. When Dr. Ulicny was personally contacted, Dr. Ulicny related that Patterson should still be restricted. (H.D. 52, 54; H.D.E. 8)

57. Knowing that Dr. Ulicny would not release him until he was seizure free for 1 year, Patterson became unsatisfied with Dr. Ulicny's continuance of restrictions and specifically sought neurological clearance from another doctor in his efforts to be reinstated. (Vol. 1, N.T. 49, 106, 107, 108, 109)

58. In February 1981, Patterson went to Allegheny General Hospital and requested to see a neurologist. (Vol. 1, N.T. 107-108)

59. In February 1981, Patterson was seen by Dr. Weikers, who was told by Patterson that Patterson had been seizure free since 1978. (Vol. 1, N.T. 108; B.D. 11, 24)

60. In April 1981, Patterson was seen by Dr. Jon Brillman, who gave Patterson a full release to return to work. (B.D.E. 3 & 4)

61. Although Patterson's April 1981 E.E.G. was "mildly abnormal", Dr. Brillman relied on Patterson's representations that he was seizure free since 1978. (B.D. 13, 27, 29)

62. Patterson had not been seizure free since 1978. (B.D. 27; U.D. 16, 18, 37, Vol. 1, N.T. 98, 102, 154, 167)

63. In April 1981, Patterson presented Dr. Brillman's full medical release to LTV. (S.F. 34)

64. LTV's medical department recognized that employees might not be wholly honest and direct when relaying their personal histories regarding seizure activity. (H.D. 33, 63; H.D.E. 2)

65. Dr. Halen prudently recommended caution regarding Patterson because of inconsistent medical input regarding whether Patterson should be restricted. (H.D.E. 2; 14)

66. In June 1981, Patterson filed the present PHRC complaint alleging that LTV's April 1981 failure to return him to work was discriminatory. (S.F. 42, 43; S.E. 28)

67. On August 4, 1982, Patterson amended his complaint to plead in the alternative that LTV had either refused to reinstate him or to rehire him. (S.F. 56; S.E. 37)

68. In November 1982, Patterson attended an arbitration hearing, prior to the start of which he had a seizure episode. (Vol. 1, N.T. 126; Vol. 2, N.T. 88)

69. In January 1984, while attending a meeting at the PHRC Pittsburgh Regional Offices, Patterson experienced a seizure episode. (Vol. 1, N.T. 116, 117)

70. Patterson did not tell his doctors about the seizure episode at the PHRC offices. (Vol. 1, N.T. 118)

71. LTV's concern for Patterson's personal safety and the safety of co-workers caused LTV to refuse to rehire Patterson in April 1981. (H.D. 37, 44, 67, 73)

72. When LTV had jobs available into which employees with medical restrictions could be placed, LTV put persons with seizure disorders to work. (H.D. 92)

73. During the period Patterson's condition manifested itself, LTV was in a slowdown period until the Aliquippa facility was eventually

idled in July 1985. (Vol. 2, N.T. 24, 56, 113)

74. In the blast furnace area, LTV had no safe jobs to which Patterson could have been assigned. (Vol. 2, N.T. 55)

75. Consideration was given by LTV regarding an attempt to accommodate Patterson, however, accommodation was unsuccessful because LTV had no available positions into which Patterson could have been safely placed. (Vol. 2, N.T. 97, 98, 107)

CONCLUSIONS OF LAW

1. Complainant Michael H. Patterson is an individual within the meaning of the Pennsylvania Human Relations Act.

2. Respondent LTV is an employer within the meaning of the PHRA.

3. The Pennsylvania Human Relations Commission has jurisdiction over the parties and subject matter of this action.

4. The parties and the PHRC have fully complied with the procedural prerequisites to a public hearing in this case.

5. Patterson has made out a prima facie case by establishing that:

a. At the time of the action complained of he was handicapped within the meaning of the PHRA and pertinent regulations; and

b. Because of his handicap he suffered an adverse employment consequence

6. LTV has met its burden of proving that Patterson's handicap was job-related in that it posed a demonstrable threat of harm to the health and safety of both Patterson and others.

OPINION

This case began with a complaint filed by Michael H. Patterson ("Patterson") against Jones and Laughlin Steel Corporation ("Respondent" or "LTV") with the Pennsylvania Human Relations Commission ("PHRC") on June 2, 1981 at Docket No. E-20429. Patterson alleged that LTV violated the Pennsylvania Human Relations Act, 43 P.S. §§951 et seq. ("PHRA") by refusing to reinstate him to the position of second helper because of his non-job related disability, a seizure disorder. On August 4, 1982, Patterson amended his complaint to allege in the alternative that LTV's action was either a refusal to reinstate him or a failure to rehire.

PHRC staff conducted an investigation and found probable cause to credit the allegation of discrimination. When efforts to resolve this matter through conference, conciliation, and persuasion were unsuccessful, the case was approved for public hearing. This case was heard in Pittsburgh, Pennsylvania on July 15 and 16, 1986, by then Commissioners Wisniewski, Scott, and Clark. Only Commissioner Clark remains a PHRC Commissioner at the time of this opinion's preparation.

Immediately following the conclusion of the Public Hearing, LTV filed bankruptcy causing an extended stay of final action in this case. Despite the stay, on or about the later part of April or early May, 1989, the parties agreed to have the PHRC issue a final order. The Respondent's brief was received on August 2, 1989 and the PHRC Regional Office brief was received on July 14, 1989 .

Patterson was hired by LTV on March 22, 1976 as a laborer in LTV's Aliquippa works facility. After a short time, Patterson was made a second helper in the Aliquippa plant. As a second helper, Patterson worked in the blast furnace area where he primarily assisted in the intermittent movement of molten slag across the floor of the blast furnace area to collection vessels. When not moving slag, Patterson generally prepared the area for the next blast furnace release.

On March 3, 1978, Patterson became dizzy at work and while on the way home experienced a severe seizure episode on a public bus. Patterson was taken to a local hospital where he again experienced a seizure episode described as a "typical grand mal seizure."

On March 9, 1978, Patterson admitted himself to a hospital where he stayed until March 18, 1978. Following his release from the hospital, Patterson returned to work with a doctor's certificate which reflected restrictions of no climbing or operating heavy machinery. On April 25, 1978, Patterson again experienced a dizzy spell at work. For his personal safety, Patterson was placed in a control room for the remainder of the day. On April 26, 1978, Patterson was told LTV had no work available for him because of his medical restrictions. Patterson last worked for LTV on April 25, 1978.

In March 1978, Patterson began to be treated by Dr. Ulicny, a neurologist. Dr. Ulicny prescribed anti-convulsant drugs in an effort to control Patterson's seizures. Dr. Ulicny also placed restrictions on Patterson's activities to attempt to minimize Patterson's exposure to

danger. Dr. Ulicny told Patterson that before he would lift the medical restrictions, Patterson had to be seizure free for at least 1 year.

In August 1979, and again in December 1979, Patterson attempted to return to work at LTV only to be rejected because of the medical limitations placed on Patterson by Dr. Ulicny. Subsequently, in August 1980, Patterson attempted to return to LTV but was again rejected for the same reason: Dr. Ulicny's medical restrictions.

In February 1981, Patterson changed doctors seeking neurological clearance. In April 1981, Dr. Brillman, another neurologist, did give Patterson a full release to return to work. Patterson then presented Dr. Brillman's release to LTV but LTV continued to reject Patterson's attempts to be placed back on the job. In June 1981, Patterson filed the present complaint.

Patterson bears the initial burden of making out a prima facie case of discrimination. General Electric Corp. v. Pennsylvania Human Relations Commission, 365 A.2d 649, 469 Pa. 291 (1976); Allegheny Housing Rehabilitation Corp. v. PHRC, 516 Pa. 124, 532 A.2d 315 (1987). We find in this case that he has done so by proving that he is a handicapped person within the meaning of the PHRA and pertinent regulations, and that he suffered an adverse employment consequence because of that handicap. Philadelphia Electric Co. v. Pennsylvania Human Relations Commission, 448 A.2d 701 (1982).

The PHRA nowhere defines "handicap or disability." Regulations supplying definitions were adopted by the Commission and upheld by Commonwealth Court in Pennsylvania State Police v. Pennsylvania Human

Relations Commission and Phyllis Sweeting, 72 Pa. Cmwlth. Ct. 520, 457 A.2d 584 (1983) and Pennsylvania State Police v. Pennsylvania Human Relations Commission and Governor Williams, 85 Pa. Cmwlth. Ct. 621, 483 A.2d 1039 (1984). PHRC regulations provide in relevant part:

Handicapped or disabled person - includes the following:

- (i) A person who:
 - (A) has a physical or mental impairment which substantially limits one or more major life activities;
 - (B) has a record of such an impairment; or
 - (C) is regarded as having such an impairment.
- (ii) As used in subparagraph (i) of this paragraph, the phrase:
 - (A) "physical or mental impairment" means a physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin, and endocrine or a mental or psychological disorder, such as mental illness, and specific learning disabilities.
 - (B) "major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
 - (C) "has a record of such an impairment" means has a history of or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.
 - (D) "is regarded as having an impairment" means has a physical or mental impairment that does not substantially limit major life activities but that is treated by an employer or owner, operator, or provider of a public accommodation as constituting such a limitation; has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or has none of the impairments defined in subparagraph (i)(A) of this paragraph but is treated by an employer or

owner, operator, or provider of a public accommodation as having such an impairment.

16 Pa. Code §44.4.

Patterson was in 1981 a handicapped/disabled person within the meaning of these sections. A reasonable conclusion can be drawn from the record in this case that Patterson continues to suffer from a seizure disorder, a "physical or mental impairment" as defined above. Also, as Commonwealth Court concluded in Williams, an employer's adverse action against an employee for medical reasons is per se an impairment of the major life activity of working within the meaning of PHRC regulations. Unquestionably LTV regarded Patterson as handicapped. Patterson also had a record of impairment going back at least to March 3, 1978 when he experienced a dizzy spell at work.

It is not disputed that beginning on April 25, 1978, Patterson was no longer permitted to work. Further, it is not disputed that in April 1981, LTV either refused to reinstate Patterson or refused to rehire him because LTV perceived Patterson had a seizure disorder. We find that LTV's April 1981 refusal was an adverse employment consequence. Accordingly, Patterson having made out a prima facie case, we must consider LTV's explanation of its conduct.

The PHRA by its terms protects only persons whose disabilities are "non-job related":

The term "non-job related handicap or disability" means any handicap or disability which does not substantially interfere with the ability to perform the essential functions of the employment which a handicapped person applies for, is engaged in or has been engaged in.

43 P.S. §954 (p).

PHRC regulations also provide in relevant part:

Non-job related handicap or disability - includes the following:

- (i) Any handicap or disability which does not substantially interfere with the ability to perform the essential functions of the employment which a handicapped person applies for, is engaged in, or has been engaged in. Uninsurability or increased cost of insurance under a group or employee insurance plan does not render a handicap or disability job-related.
- (ii) A handicap or disability is not job-related merely because the job may pose a threat of harm to the employee or applicant with the handicap or disability unless the threat is one of demonstrable and serious harm.
- (iii) A handicap or disability may be job-related if placing the handicapped or disabled employee or applicant in the job would pose a demonstrable threat of harm to the health and safety of others.

LTV argues that Patterson's handicap is job-related within the meaning of these sections. It is not suggested that in 1981 Patterson was in any way presently physically unable to generally perform second helper duties; rather, LTV contends the evidence shows its actions were prudent and that under the circumstances presented in this case, the threat of future harm to both Patterson and others rendered his disability job-related. We agree.

To a large degree, resolution of the reasonableness of LTV's action hinges on several critical factors. One glaring factor is the inherent danger in the workplace. Quite simply, either quick dismemberment or death await any employee who might happen to stumble into a trough filled with flowing molten slag. Second helpers work quite close to molten slag and fundamentally must be fully alert at all times.

A second factor weighing heavily on the reasonableness question surrounding LTV's action was a recognition by LTV's medical department that

Patterson's doctors had provided seemingly opposite certifications. Until August 1980, Dr. Ulicny continually placed restrictions on Patterson's activities. In August 1979, Patterson had provided LTV's medical department with Dr. Ulicny's certification which listed specific restrictions. In August 1980, Dr. Ulicny drafted a new certification which was considered ambiguous when presented to LTV's medical department. Dr. Ulicny's August 1980 certification indicated that Patterson had "clearance to return to work in his previous job description." When LTV's medical department personally contacted Dr. Ulicny for clarification, Dr. Ulicny confirmed that Patterson should still be restricted.

Patterson next returned to LTV's medical department in April 1981 with a full release certification from Patterson's new doctor, Dr. Brillman. LTV's medical department prudently recognized that seizure disorder assessment depends upon a patient providing their doctor with honest and direct personal histories. There was a similar recognition that an employee who was trying to get their job back might have the tendency to slant their personal medical history.

As the evidence presented revealed, Patterson had not given Dr. Brillman a complete chronology of his seizure episodes. In April 1981, the existence of inconsistent medical input regarding Patterson's seizure status was sufficient to classify LTV's refusal to either reinstate or rehire Patterson as a second helper as both a prudent and reasonable action.

Considered as a whole, the record establishes to a degree of certainty which we find sufficient that Patterson may have experienced a

sudden seizure episode. As a second helper, having a seizure easily could result in great harm to either Patterson or co-workers. Accordingly, we conclude that LTV has established that Patterson's condition was job-related because allowing Patterson in the blast furnace area would have posed a demonstrable threat to the health and safety to Patterson and others. We emphasize that the risks involved here are not merely hypothetical. Respondent's concern with safety was not based upon fear of the unknown, but on known, measurable dangers with predictable, and potentially disastrous, consequences.

With regard to possibly placing Patterson in a different position, Patterson suggested LTV should have permitted him to work as a janitor. The evidence is clear on the matter of any alternative position in the blast furnace area. LTV simply had no safe jobs in the blast furnace area to which Patterson could have been assigned.

LTV gave consideration to making an accommodation of Patterson's seizure disorder, however, no accommodation was made for several reasons. Uncontested testimony revealed that when LTV had jobs available into which an employee with medical restrictions could be placed, LTV put such employees to work. In fact, testimony specifically noted that LTV had put employees with seizure disorders to work. However, during the period Patterson's condition manifested itself, LTV's operation was in a slowdown period. LTV had cut its operation from continual operation of three blast furnaces to one furnace. In July 1985, LTV's Aliquippa facility was ultimately idled. Accordingly, LTV asserts, there was no position available into which LTV might safely place Patterson.

No evidence was offered to rebut LTV's position in this regard. Accordingly, while emphasizing that this decision is limited to the factual context presented, the following order dismissing this complaint is recommended.

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA HUMAN RELATIONS COMMISSION

MICHAEL H. PATTERSON,
Complainant

v.

JONES & LAUGHLIN STEEL CORP.,
Respondent

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Docket No. E-20429

RECOMMENDATION OF HEARING PANEL

Upon consideration of the entire record in this case, Hearing Panel Member Rita Clark concludes that Respondent did not violate the Pennsylvania Human Relations Act, and therefore recommends that the foregoing Findings of Fact, Conclusions of Law, and Opinion be adopted by the full Pennsylvania Human Relations Commission, and that a Final Order of dismissal be entered, pursuant to Section 9 of the Act.



Rita Clark
Hearing Commissioner

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FINAL ORDER

AND NOW, this 30th day of August, 1989, following review of the entire record in this case, including the transcript of testimony, exhibits, briefs, and pleadings, the Pennsylvania Human Relations Commission hereby adopts the foregoing Findings of Fact, Conclusions of Law, and Opinion, in accordance with the Recommendation of the Hearing Panel, pursuant to Section 9 of the Pennsylvania Human Relations Act, and therefore

O R D E R S

that the complaint in this case be, and the same hereby is, dismissed.

PENNSYLVANIA HUMAN RELATIONS COMMISSION

BY: Thomas L. McGill, Jr.
Thomas L. McGill, Jr.
Chairperson

ATTEST:

Gregory J. Celia, Jr. AS Sec
Gregory J. Celia, Jr., Assistant Secretary
Gregory J. Celia Jr