

**COMMONWEALTH OF PENNSYLVANIA**

**GOVERNOR'S OFFICE**

**PENNSYLVANIA HUMAN RELATIONS COMMISSION**

**CARROLL L. MATTINGLY,  
Complainant**

**v.**

**DOCKET NO. E-61933-A**

**BOROUGH OF POTTSTOWN,  
Respondent**

**STIPULATIONS OF FACT**

**FINDINGS OF FACT**

**CONCLUSIONS OF LAW**

**OPINION**

**RECOMMENDATION OF PERMANENT HEARING EXAMINER**

**FINAL ORDER**

COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA HUMAN RELATIONS COMMISSION

CARROLL L. MATTINGLY, : DOCKET NO. E-61933  
: :  
Complainant : :  
: :  
v. : :  
: :  
BOROUGH OF POTTSTOWN, : :  
: :  
Respondent :

STIPULATIONS OF FACT

The following facts are admitted by all parties to the above-captioned case and no further proof thereof shall be required.

1. The Complainant herein is Carroll L. Mattingly, a male adult (hereinafter "Complainant").
2. The Respondent herein is the Borough of Pottstown (hereinafter "Respondent").
3. The Respondent at all times relevant to the case at hand, has employed four or more persons within the Commonwealth of Pennsylvania.
4. On or about November 12, 1992, the Complainant filed a verified complaint with the Philadelphia Regional Office of the Pennsylvania Human Relations Commission (hereinafter "Commission") at Docket No. E-61933.
5. In correspondence dated October 20, 1994, Commission staff notified the Respondent that probable cause existed to credit the allegations contained in the above-referenced complaint.

6. Subsequent to the determination of probable cause, conciliation was attempted between the parties but proved to be unsuccessful.

7. In correspondence dated June 30, 1995, Commission staff notified the Respondent that a public hearing had been approved in this matter.

8. The Complainant was born on September 26, 1926.

9. The Complainant was hired by the Respondent on November 2, 1966, as a Housing Inspector.

10. On July 15, 1968, the Complainant became the Respondent's Code Enforcement Director which was a management salaried position in the Borough.

11. The Pennsylvania Department of Community Affairs prepared the job description for the Borough's Code Enforcement Director in the early 1960's.

12. Thomas Harwood was the Borough Manager for Pottstown throughout 1991 and 1992 and as such was responsible for supervising and evaluating personnel for the Borough's management salaried positions.

13. Borough Manager Thomas Harwood supervised and evaluated Code Enforcement Director Carroll Mattingly during 1991 and 1992.

14. Borough Manager Thomas Harwood was required to attend all of the Borough Council's meetings as one of his responsibilities.

15. Lois Panoc was Secretary to the Assistant Borough Manager, Craig Zinns, and was responsible to taking minutes, transcribing, distributing and filing them during 1991 and 1992.


16. Borough Manager Thomas Harwood was directed by the Borough Council to tell Carroll Mattingly that his position would not be funded in the 1992 budget.

17. The Complainant's annual salary as Code Enforcement Director as of the effective date of his termination was \$41,292.91.

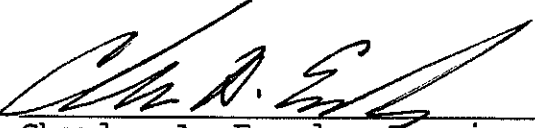
18. Ray Polaski, Allentown's code director in 1992, was hired by the Pennsylvania Department of Community Affairs to perform a study of Pottstown's code enforcement department.

19. Mr. Polaski completed his study and prepared a report which was disseminated to Borough Council on or about July 20, 1992.

20. The Borough had no mandatory retirement age for its management salaried personnel.

  
\_\_\_\_\_  
Pamela Darville, Esquire  
Assistant Chief Counsel  
(Counsel for the Commission  
on behalf of the Complainant)

2/8/96  
\_\_\_\_\_  
Date:

  
\_\_\_\_\_  
Charles A. Ercole, Esquire  
(Counsel for Respondent)

2/7/96  
\_\_\_\_\_  
Date:

## FINDINGS OF FACT \*

1. The Complainant, Carroll L. Mattingly (hereinafter "Mattingly"), turned sixty-six years old on September 26, 1992. (SF 1, 8; CE 9.)
2. The Respondent herein is the Borough of Pottstown (hereinafter "Borough"). (SF 2.)
3. The Borough is managed by an elected seven-member council. (NT 434, 548, 635, 717, 769, 846.)
4. The Borough mayor's primary role is to oversee the Borough police department. (NT 918.)
5. While the mayor participates in discussions at council meetings, the mayor only votes in the event of a tie. (NT 372, 918.)
6. As a Borough employee, Mattingly held the position of Director of Code Enforcement from 1970 until October 31, 1992, when the position of Director of Code Enforcement ceased to exist. (NT 36, 46.)

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\* The foregoing Stipulations of Fact are incorporated herein as if fully set forth. To the extent that the Opinion which follows recites 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:

CE	Complainant's Exhibit
NT	Notes of Testimony
RE	Respondent's Exhibit
SF	Stipulations of Fact

7. By state law, the Borough council must pass a balanced budget by the end of each year. (NT 360-361, 503, 718, 761.)

8. In the fall of 1991, the Borough was faced with a significant projected budget deficit of between \$350,000 and a half-million dollars. ((NT 336, 498 and 772-773.)

9. In mid-November 1991, the Borough's manager, Thomas Harwood (hereinafter "Harwood"), submitted numerous budget recommendations and materials to the Borough council for its consideration. (NT 308, RE 1.)

10. In the fall of 1991, during numerous Borough council meetings, a variety of proposals were considered in "excruciating detail" as measures to address the expected shortfall in the general fund. (NT 719, 771, 772-773, 852.)

11. Some areas considered included: raising taxes, reducing all departments' expenditures by ten percent, merger of fire departments, reduction in fire department staff, further reduction of the police complement, reduction of refuse collection services, shift library money to the general fund, and cut other services. (NT 323, 329, 362, 364, 371, 411, 446, 453, 500, 504, 719, 720.)

12. Eventually, the council's attention focused on possible personnel reductions, and on December 11, 1991, the council directed Harwood to prepare a report which reflected Borough positions and the cost savings potentially to be realized by the elimination of positions. (NT 560, 722, 776, 910.)

13. In a memorandum presented to council dated December 18, 1991, Harwood outlined the cost savings which could be realized by reducing personnel in various department. (NT 322, 366, 370, 505, 654; RE 2.)

14. On December 19, 1991, Borough council met in an executive session, from 5:00 to 8:30 p.m., to further discuss the budget. (NT 307, 381, 442, 499, 508.)

15. Harwood's December 18, 1991 memorandum reflected that the most significant savings in the general fund could be realized by the elimination of the fire chief position and a reduction of the code enforcement department. (RE 2.)

16. The mayor focused the council's consideration on the fire chief position and Mattingly's position by suggesting their elimination. (NT 429.)

17. The mayor told the council that both Mattingly and Fire Chief Harold Moyer could retire, and that the council should "cut personnel where it is going to get you some dollars." (NT 318, 320, 373, 506, 561, 655, 727, 856, 908.)

18. The Borough council, faced with making hard financial decisions, expressed concern regarding who would do Mattingly's duties if his position were eliminated. (NT 560, 562-563, 656, 857.)

19. In effect, the council concluded that if Mattingly's position were eliminated, Mattingly's duties could be absorbed by Harwood and existing code enforcement department personnel. (NT 264, 563, 781, 857.)

20. The council then directed Harwood to prepare a budget which reflected the elimination of Mattingly's and Moyer's positions. (NT 317, 321.)

21. On December 20, 1991, Harwood met with Mattingly and Moyer to tell them that the council had decided their positions would not be funded after December 31, 1991. (NT 40, 45-46, 130-131, 332-333, 383, 425, 832-833, 876.)

22. On or about December 23 or 24, 1991, by Harwood's own initiative, Harwood posed to Mattingly and Moyer an idea which he felt might result in an extension of Mattingly's and Moyer's positions. (NT 41, 137, 386, 426.)

23. Harwood told Mattingly and Moyer that if they expressed an interest in retiring, he would approach the council with a proposal to extend their positions for a period not to extend beyond fall of 1992. (NT 41, 45, 386, 388, 389.)

24. In a memorandum to Harwood dated December 24, 1991, Mattingly expressed an intent to retire after September 26, 1992. (CE 9.)

25. In a memorandum dated December 27, 1991, from Harwood to the Borough council, Harwood informed the council that Mattingly and Moyer were willing to retire by October 1992, and that if council allowed this measure the interim period could become a transition period. (NT 390, 731; RE 4.)

26. By a unanimous vote, the Borough council adopted a budget which funded Mattingly's and Moyer's positions until the end of October 1992. (NT 396, 460.)

27. In a December 31, 1991 newspaper article, the council actions were reported. (RE 19.)

28. Mattingly read this article. (NT 144.)



29. Harwood discussed with Mattingly the council's action which extended Mattingly's position until October 31, 1992. (NT 152, 399.)

30. Mattingly was fully aware that the council had extended his position until October 31, 1992. (NT 46, 47, 145-146, 152, 877.)

31. Harwood never indicated to Mattingly that he could get the position extended beyond October 31, 1992. (NT 155, 877.)

32. Council members neither proposed extending Mattingly's position past October 31, 1992, nor indicated they intended to reverse their decision that Mattingly's position would end October 31, 1992. (NT 156, 400, 421, 461, 463, 479, 661, 733-734, 785, 859-860.)

33. Borough council had committed itself to a financial course of action during which time the Borough's budget had not improved. (NT 787.)

34. By law, the newly-elected Borough council had an opportunity, until February 15, 1992, to change the budget which had been approved on December 30, 1991. (NT 485, 512.)

35. In effect, in February 1992, Borough council ratified the budget adopted earlier on December 30, 1991. (NT 399.)

36. Feeling his job to be essential to Borough operations, Mattingly clung to a belief that his position might continue past October 31, 1992. (NT 43, 46, 174.)

37. On or about August 5 or 6, 1992, Harwood advised Mattingly to begin to use his vacation time. (NT 47-48, 153-154.)

38. On or about August 27, 1991, Mattingly called the Pennsylvania Human Relations Commission (hereinafter "PHRC") regarding obtaining information for filing a PHRC complaint. (NT 50-51; CE 16.)

39. In a letter dated September 1, 1992, a PHRC human relations representative advised Mattingly that attempts to contact him had been unsuccessful, and that Mattingly should call the PHRC Harrisburg Regional Office. (CE 16.)

40. Under a cover letter dated September 4, 1992, a PHRC human relations representative forwarded a questionnaire and several other forms to Mattingly for completion and return within ten days. (CE 17.)

41. Under cover letter dated September 14, 1992, Mattingly forwarded an unverified questionnaire to the PHRC regional office in Harrisburg. (CE 18.)

42. Subsequently, the PHRC Harrisburg Regional Office prepared a formal complaint form and mailed it to Mattingly. (NT 234; CE 11.)

43. Mattingly notarized this document on November 12, 1992 and mailed it back to the PHRC Harrisburg Regional Office. (NT 234; CE 11.)

44. On October 31, 1992, Mattingly's position was eliminated, and the duties of the position were absorbed by Harwood and staff of the code enforcement department. (NT 56, 282, 284.)

## CONCLUSIONS OF LAW

1. The Pennsylvania Human Relations Commission has jurisdiction over the parties and subject matter of this case.
2. The Complainant is an individual within the meaning of the Pennsylvania Human Relations Act.
3. The Respondent is an employer within the meaning of the Act.
4. The Complainant failed to timely file his complaint.

## OPINION

This case arises on a complaint filed by Carroll L. Mattingly (hereinafter "Mattingly") against the Borough of Pottstown (hereinafter the "Borough"), on or about November 12, 1992, at Docket No. E-61933-A. In his complaint, Mattingly generally alleged that his job was eliminated on October 31, 1992. Mattingly alleged that the elimination of his position was age-based discrimination in violation of Section 5(a) of the Pennsylvania Human Relations Act (hereinafter "PHRA").

The Pennsylvania Human Relations Commission (hereinafter "PHRC") investigated Mattingly's allegations, and at the conclusion of the investigation concluded that probable cause existed to credit Mattingly's age-based claim.

Thereafter, the PHRC attempted to eliminate the alleged unlawful age-based discrimination through conference, conciliation and persuasion, but such efforts proved unsuccessful. Subsequently the PHRC notified the parties that it had approved a public hearing of Mattingly's allegation.

The public hearing was held on February 21, 22, 23, and 29, and March 1, 1996, in Gilbertsville, Pennsylvania, before Permanent Hearing Examiner Carl H. Summerson. The case on behalf of the complaint was presented by PHRC Assistant Chief Counsel Pamela Darville. Charles A. Ercole, Esquire, appeared on behalf of the Borough. Following the public hearing, the parties were afforded an opportunity to submit briefs. The post-hearing brief on behalf of the complaint was received on April 25, 1996, and the brief for the Borough was received on or about June 1, 1996. Subsequently, a reply brief on behalf of the complaint was received on

June 21, 1996. On July 1, 1996, the Borough's letter in lieu of a reply brief was received.

Following the pre-hearing conference held in this matter, and near the conclusion of the established discovery period, the Borough filed a Motion for Summary Judgment which generally asserted that Mattingly's allegations had been untimely filed. By an Interlocutory Order dated February 13, 1996, the Borough's motion was denied because the relative positions of the parties on motion were reviewed in the light most favorable to Mattingly, since he was defending the Borough's motion.

Now, after the public hearing of this matter, the issue of whether Mattingly's allegation was timely filed is revisited since, in effect, the Borough has renewed its Motion to Dismiss, asserting Mattingly did not timely file his PHRC complaint. Furthermore, at this stage, Mattingly is no longer entitled to a review which places his assertions in the light most favorable to him. Instead, Mattingly must have presented evidence which establishes by a preponderance of evidence that his complaint was timely filed.

Of course, on timeliness issues we first turn to Section 9(h) of the PHRA, which states in pertinent part: "Any complaint filed pursuant to this section must be so filed within one hundred eighty days after the alleged act of discrimination. . ."

In this case, we must look at two general questions: (1) When did the alleged act of discrimination occur? and, (2) When was Mattingly's complaint filed?

We must know the answer of when the alleged act occurred because this is the day the one hundred eighty-day filing period begins to run.

Here, the Borough argues that the filing period should commence on December 20, 1991, when Harwood notified Mattingly of the council's decision to eliminate Mattingly's position, effective December 31, 1991. The PHRC Philadelphia Regional Office's brief on behalf of the complaint submits that it was not until August 4 or 5, 1992, that Mattingly received clear and unequivocal notice that his position would be eliminated, effective October 31, 1992. In the alternative, the brief on behalf of the complaint touches on the argument that the one hundred eighty-day filing period should be found to begin on the last day of Mattingly's employment on October 31, 1992.

As previously indicated in the February 13, 1996 Interlocutory Order, in the U.S. Supreme Court case of Delaware State College v. Ricks, 449 US 250 (1980), the United States Supreme Court held that claims for employment discrimination accrue when notice of termination is communicated to an employee. 449 US at 258. The Ricks court reasoned: "Mere continuity of employment, without more, is insufficient to prolong the life of a cause of action for employment discrimination." 449 US at 257. In Ricks, a college faculty member alleged the college denied him tenure on the basis of racial discrimination. Although the college had a policy of offering a professor who did not receive tenure a contract for one additional year rather than discharging him immediately, the Supreme Court held the limitations period for the Title VII and Civil Rights Act claims began to run at the time that the

tenure decision was made and communicated to the teacher. (*Id.* at pp. 257-258.)

Even though the loss of job came later, the court determined:

"[T]he proper focus is upon the time of the *discriminatory acts*, not upon the time at which the *consequences* of the acts became most painful." [Citations.] It is simply insufficient for Ricks to allege that his termination "gives present effect to the past illegal act and therefore perpetuates the consequences of forbidden discrimination." [Citation.] The emphasis is not upon the effects of earlier employment decisions; rather, it "is [upon] whether any present *violation* exists." [Citation.]" (*Id.* at p. 258. . . original italics.)

After Ricks, not only federal Title VII and other civil rights cases followed the principles of Ricks, it appears that nearly all state courts which have directly addressed this issue have chosen to follow the U.S. Supreme Court's articulated rule. See, St. Petersburg Motor Club v. Cook, 567 So.2d 488 (Fla.App.2d Dist. 1990); Naylor v. W.Va. Human Rts. Comm'n, [54 EPD ¶ 40,103] 378 S.E.2d 843 (W.Va. 1989); Walpella Educ. Ass'n v. Illinois Educ. Labor Rel. Bd., 177 Ill.App.3d 153, 531 N.E.2d 1371 (Ill.App. 4th Dist. 1988); Hilmes v. Department of Industry, Labor & Human Relations, 147 Wis.2d 48, 433 N.W.2d 251 (Wis. App. 1988); Indep. Fire Co. No. 1 v. W.Va. Human Rts. Comm'n, 376 S.E.2d 612 (W.Va. 1988); Quicker v. Colorado Civil Rts. Comm'n, 747 P.2d 682 (Colo. App. 1987); Ambrose v. Natomas Co., 155 Cal.App.3d 397, 202 Cal.Rptr. 217 (Cal.App. 1984); Humphreys v. Riverside Mfg. Co., 169 Ga.App. 18, 311 S.E.2d 223 (1983); Board of Governors v. Rothbardt, 98 Ill.App.3d 423, 424 N.E.2d 742 (1981); Horn v. Human Rts. Appeal Board, 75 A.D.2d 978, 428 N.Y.S.2d 368 (1980); Ching v. Mitre Corp., [55 EPD ¶ 40,422] 921 F.2d 11 (1st Cir. 1990) (applying Massachusetts law).

In Pennsylvania, appellate review of PHRC cases has only come close to the specific issue presented. In Vincent v. Fuller, 616 A.2d 969 (Pa. 1992), the Pennsylvania Supreme Court recognized that federal courts, in the context of Title VII and ADEA cases, "uniformly [hold] that the limitations period is not extended merely because the effects of an alleged violation continue to be experienced by the employee," citing Ricks. The Pa. Supreme Court then confirmed its agreement with the reasoning underlying Ricks and cases following Ricks, and specifically found that reasoning "applicable to actions under the Pennsylvania Human Relations Act." Vincent at 972.

Since 1980, the Pa. Supreme Court has recognized that there are particularly appropriate situations where the interpretation of the PHRA and Title VII should be in harmony. Chmill v. City of Pittsburgh, 412 A.2d 860 (Pa. 1980). In Chmill, the Pa. Supreme Court declared: "Indeed, as our prior cases have suggested, the Human Relations Act should be construed in light of principles of fair employment law which have emerged relative to the federal [statute]. . .," citing General Electric Corporation v. PHRC, 469 Pa. 292, 365 A.2d 649 (1976).

As recently as 1993, appellate courts in Pennsylvania have continued to recognize Title VII precedent as valuable in interpreting the PHRA. See, Kryeski v. Schott Glass Technologies, \_\_\_ Pa. Super. \_\_\_, 626 A.2d 595 (1993). Accordingly, the principles of Ricks should be applied to the present matter.

The earlier Interlocutory Order which denied the Borough's Motion for Summary Judgment noted that to be effective, a notice must be clear, unequivocal,



and unconditional. The earlier motion was denied because a fact dispute existed with regard to this issue. Following the receipt of evidence at the public hearing, the facts are now clear.

First, on December 20, 1991, Harwood clearly communicated to Mattingly that the Borough council fully intended that Mattingly's position was to end as of December 31, 1991. This may well have happened except that Harwood generated a proposed plan in an effort to save Mattingly's and Moyer's jobs for at least a while. On or about December 24, 1991, Harwood suggested to Mattingly that if Mattingly would submit a letter reflecting an intent to retire before the end of the fall of 1992, perhaps the Borough council could be persuaded to extend the imminent elimination of his position until fall of 1992.

While the notice to Mattingly was clear on December 20, 1991 that his position would end effective December 31, 1991, the Borough council's subsequent action negated the effect of that notice. After Harwood proposes that the council extend Mattingly's position to allow a transition period, on December 30, 1991, the Borough council unanimously voted to fund Mattingly's position until October 31, 1992, at which time Mattingly's position would cease to exist.

The details of the council's action were then reported in the local newspaper on December 31, 1991, and Mattingly testified that he read the article. Clearly, Mattingly had to be anxiously awaiting the council's action on Harwood's plan to get the council to extend Mattingly's position until the end of October 1992. Although Harwood was not precise regarding when he told Mattingly that the Borough council

had extended his position until the end of October 1992, it is quite clear that Harwood did communicate this information to Mattingly, and that Mattingly knew full well that the Borough council's December 30, 1991 action extended his position to October 31, 1992, and no longer.

Arguably, the one hundred eighty-day limitation period could thus begin as early as December 31, 1991. However, one additional factor could be said to render the Borough council's vote, on December 30, 1991, conditional.

Here, the budget approved on December 30, 1991 was approved by a Borough council whose composition differed from that council which controlled Borough operations beginning January 1, 1992. Elections in November 1991 resulted in at least one council member losing a council seat, effective January 1992. When this occurs, state law provides an initial forty-five-day period, following the beginning of the tenure of a new council, in which to amend a budget passed by a prior council. Here, on February 10, 1992, the Borough council effectively adopted a budget which did not modify the earlier decision to eliminate Mattingly's position effective October 31, 1992.

Mattingly was well aware that, under this statutory provision, the new council had until February 15, 1992 to amend the previously-passed budget. Here, Mattingly was surely aware that no such modification occurred.

Mattingly was never told by Harwood that his position would somehow be extended beyond October 31, 1992. Furthermore, at no time did a council member either represent directly to Mattingly that the prospect for his future would somehow

change, or even propose for council consideration a modification of the decision to eliminate Mattingly's position on October 31, 1992. Mattingly's own optimistic hopes are not sufficient to characterize the notice he had into an unclear, equivocal, or conditional position. Beginning on December 31, 1991, Mattingly knew his position was scheduled to end on October 31, 1992. Subsequently, on February 10, 1992, perhaps the final chance for a change, no alteration of the firm decision occurred.

Thus, even if we begin the one hundred eighty-day period as late as February 10, 1992, to be timely Mattingly's complaint must have been received by the PHRC not later than August 8, 1992. This brings us to the second question: When did Mattingly file a PHRC complaint?

Here, the evidence is clear that Mattingly's first contact with the PHRC was not until the end of August 1991, after the one hundred eighty-day limitation period had expired. Whether we consider as Mattingly's complaint either his unverified questionnaire (received by the PHRC on or about September 14, 1992) or his formal verified complaint (dated November 12, 1992) is of no import. Neither filing is timely.

For these reasons, this matter should be dismissed as untimely filed.

On the issue of whether the Borough's actions were discriminatory, if we were to assume *arguendo* that Mattingly's complaint was timely filed, the weight of authority would hold that Mattingly has not proven the Borough's actions were discriminatory. Here, there is no dispute that the Borough was facing a significant

budgetary shortfall for the year 1992. There is also no dispute that the need to reduce spending was essential, and that the Borough was amidst a thorny dilemma.

In the fall of 1991, the Borough had been considering a wide array of options until on December 11, 1991, the Borough council advised Harwood to assist the council in looking at further personnel cuts. When Harwood's report was reviewed on December 19, 1991, the Borough council had two principal concerns: (1) to cut positions which would save the greatest amount of money; and (2) to insure the duties of positions to be cut would be able to be absorbed by remaining personnel. Without a detailed review, the council's decision to eliminate Mattingly's position and divide up his duties between Harwood and existing code enforcement department personnel was a legitimate business decision, exercised as a critical management prerogative. The PHRA was not intended to be a vehicle to transform the PHRC into personnel managers. Here, the Borough is entitled to decide whether it is prudent to raise taxes or not, to consolidate fire companies or not, to cut additional police positions or not, or to take some other course of action they deem necessary to create a state-mandated balanced budget. Here, the Borough council simply chose to eliminate several positions.

This case is not a case in which Mattingly was replaced by a younger worker, rather, it is uncontroverted that Mattingly's duties were distributed between existing personnel, and Mattingly's position was entirely eliminated.

Finally, employers who reduce their work forces for economic reasons incur no duty to transfer an employee whose position was eliminated into another position.

See Ridenour v. Lawson Co., 40 FEP 1455 (6th Cir. 1986); Sahadi v. Reynolds Chemical, 23 FEP 1338 (6th Cir. 1980); and Smith v. Southland Corp., 52 FEP 371 (D.C. N.J. 1990).

For the reasons stated herein, Mattingly's complaint should be dismissed.

COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE  
PENNSYLVANIA HUMAN RELATIONS COMMISSION

CARROLL L. MATTINGLY,  
Complainant

v.

DOCKET NO. E-61933-A

BOROUGH OF POTTSTOWN,  
Respondent

RECOMMENDATION OF THE PERMANENT HEARING EXAMINER

Upon consideration of the entire record in the above-captioned matter, the Permanent Hearing Examiner finds that the Complainant failed to timely file his complaint. It is, therefore, the Permanent Hearing Examiner's recommendation that the attached Stipulations of Fact, Findings of Fact, Conclusions of Law, and Opinion be approved and adopted by the full Pennsylvania Human Relations Commission. If so approved and adopted, the Permanent Hearing Examiner recommends issuance of the attached Final Order.

By:   
Carl H. Summerson  
Permanent Hearing Examiner

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

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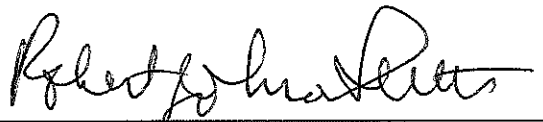
BOROUGH OF POTTSTOWN,  
Respondent

FINAL ORDER

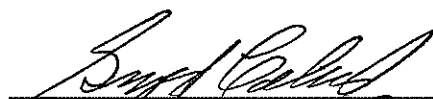
AND NOW, this 30th day of October, 1996, after a review of the entire record in this matter, the Pennsylvania Human Relations Commission, pursuant to Section 9 of the Pennsylvania Human Relations Act, hereby approves the foregoing Stipulations of Fact, Findings of Fact, Conclusions of Law, and Opinion of the Permanent Hearing Examiner. Further, the Commission adopts said Stipulations of Fact, Findings of Fact, Conclusions of Law, and Opinion as its own finding in this matter and incorporates the same into the permanent record of this proceeding, to be served on the parties to the complaint and hereby

ORDERS

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

By:   
Robert Johnson Smith, Chairperson

Attest:

  
Gregory J. Celia Jr., Secretary