COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION

KATHLEEN WELKER, Complainant

v.

CITY OF PITTSBURGH, DEPARTMENT OF PERSONNEL AND CIVIL SERVICE COMMISSION, Respondent

DOCKET NO. E-35007D

JOINT STIPULATIONS OF FACT

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OPINION

RECOMMENDATION OF PERMANENT HEARING EXAMINER

FINAL ORDER

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
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v.

CITY OF PITTSBURGH, DEPARTMENT OF PERSONNEL AND CIVIL SERVICE COMMISSION, Respondent

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JOINT STIPULATIONS OF FACT

The parties agree to the following stipulations of fact:

1. Complainant, Kathleen m. Welker, now known as Kathleen Welker Tutsock, is an adult individual residing at 1511 Daleland Avenue, Pittsburgh, Pennsylvania 15220, County of Allegheny.
2. Respondent, City of Pittsburgh, Department of Personnel and Civil Service Commission ("City"), is the hiring body of the City of Pittsburgh, a second-class city in the Commonwealth of Pennsylvania, having its offices at 400 City-County Building, Pittsburgh, Pennsylvania 15219, County of Allegheny.
3. Complainant filed a timely, verified complaint against Respondent on or about October 28, 1985 at Docket No. E-35007-D at the Pittsburgh Regional Office of the Pennsylvania Human Relations Commission ("Commission").
4. In her complaint, Complainant alleged that Respondent failed to hire her as an emergency medical technician because of her non-job-related handicap, diabetes mellitus, in violation of Sections 5(a), 5(b)(1) and 5(b)(5) of the Pennsylvania Human Relations Act, Act of October 27, 1955, P.L. 744, as amended, 43 P.S. Section 951 et seq. ("Act").
5. On May 29, 1990 Respondent filed an Answer to the complaint denying unlawful discrimination.
6. Investigation resulted in a finding of probable cause to credit the allegations of the complaint.
7. All efforts to conciliate the complaint were unsuccessful.
8. A request for public hearing was approved by the Commission on August 27, 1990.
9. A pre-hearing conference was scheduled and held on October 9, 1990.
10. All procedural requirements necessary to public hearing have been met.

11. Complainant has a medical condition known as diabetes mellitus, insulin-dependent diabetes, juvenile onset diabetes, or Type I diabetes, a condition in which the body does not produce or properly use insulin.
12. Complainant is a handicapped/disabled individual under the Act.
13. The City of Pittsburgh, Department of personnel and civil Service commission, has four or more employees and is an employer under the Act.
14. The City posted an announcement of a non-competitive examination for Emergency Medical Technician I from April 15, 1985 through April 26, 1985.
15. Complainant made a timely application for that position examination in April, 1985.
16. At the time of her application and at all times up until and including the Respondent's rejection of her application for employment, Complainant was a resident of the City of Pittsburgh as required by the Respondent.
17. At the time of her application and at times thereafter, Complainant was a state-certified emergency medical technician as require by Respondent.
18. At the time of her application and at all times thereafter, Complainant held a current and valid Class I Pennsylvania Vehicle Operator's license as required by Respondent.
19. At the time of her application and at all times during her treatment by her physician, Dr. Jerome Aarons, Complainant had no restrictions, conditions, or limitations placed upon her.
20. At the time of her application and for approximately one year prior to her application, Complainant worked as a full-time security guard for Gold Circle Department Store on rotating shifts.
21. In addition to her full-time employment with Gold Circle and previous employers, at the time of her application, Complainant performed as a volunteer emergency medical technician for Baldwin Borough approximately seventy hours per month and for the previous six years Complainant had performed her duties as an emergency medical technician for Baldwin Borough, sometimes working five shifts weekly.
22. At no time prior to or subsequent to her application to Respondent was Complainant tardy or absent in her employment with Gold Circle as a result of her medical condition.
23. At no time prior to or subsequent to her application to Respondent was Complainant tardy or absent in her volunteer work with Baldwin Borough as a result of her medical condition.
24. At no time prior to or subsequent to her application to Respondent did Complainant's medical condition affect her job performance as a security guard or as an emergency medial technician with Baldwin Borough.
25. While Complainant was employed full-time by Gold Circle on rotating shifts and volunteered approximately seventy hours monthly as an emergency medical technician, she was also a full-time student.
26. As a result of the combination of her test scores, experience, education, skills, and training, Complainant was placed on the City's list as eligible for further processing for the position as an emergency medical technician.
27. During her interview with Robert Kennedy, Chief of the Bureau of Emergency Medical Services Department, Complainant was informed that she had the highest test score of all the applicants and that she had an excellent chance of being hire.

28. The Respondent arranged for an extensive pre-employment physical examination of Complainant on October 10, 1985 which included blood tests, a treadmill test, urinalysis, the taking of a medical history, and eye examinations.
29. During the examination, on her medical history form, Complainant reported her insulin-dependent diabetic condition.
30. On October 15, 1985 Complainant was examined by Respondent's physician, Dr. Danna Swan.
31. Dr. Swan informed Complainant she would probably not be hired because of her insulin-dependent diabetes.
32. On October 23, 1985 Michele Cunko, then Assistant Director, Secretary and Chief Examiner of the City Department of Personnel and Civil Service Commission, informed Complainant by letter that she did not meet the physical standards for employment for the position of Emergency Medical Technician I and also informed Complainant that if her own physician was able to offer evidence to show that she was not diabetic or that her condition was remedied, she cold be considered for that position.
33. On November 1, 1985 Complainant appealed the City's rejection for employment and asked for a hearing.
34. On November 26, 1985 a hearing was held before the City's Department of personnel and Civil Service Commission.
35. On December 5, 1985 Michele Cunko informed Complainant by letter that her appeal had been denied by the Civil Service Commission.
36. A memo from Rebecca A. Barcley to Michele Cunko dated October 18, 1977 was prepared to obtain information on municipal and federal policies pertaining to the hiring of diabetics as firefighters.
37. A second memo from Rebecca A. Barcley to Michele Cunko dated October 25, 1977 outlined the responses of two municipal governments to the Respondent's inquiries about the hiring of diabetics as firefighters.
38. Under Rule III Section 118(13) of the rules of the Civil Service Commission which were in effect in 1985, diabetes mellitus was a disqualifying condition for emergency medical technicians.
39. This standard of the Civil Service Commission was reviewed by Dr. Swan after Complainant's disqualification for the position of emergency medical technician.
40. Dr. Swan reviewed the medical literature, the medical standards of other municipalities, and the duties of that position and it was her medical opinion that the position would be too hazardous and difficult for Complainant and that no insulin-dependent diabetic should be qualified for that position.
41. Chief Robert Kennedy testified at the Civil Service Commission hearing that an emergency medical technician with Baldwin Borough functioned in a program similar to Respondent's in structure but that the City's system had a heavier volume of calls.
42. The Respondent presently employs an insulin-dependent diabetic as a firefighter who is also a member of Respondent's Hazardous Materials Team.
43. The insulin-dependent firefighter has experienced no particular difficulties in his position which are related to his diabetic condition.
44. Respondent also employs an insulin-dependent diabetic as a paramedic.
45. The insulin-dependent paramedic has experience serious diabetic-related health problems, numerous absences, and lengthy disability leaves.

46. Complainant holds a number of certifications conferred by the Commonwealth for her emergency medical and related training.
47. These include her Emergency Medical Technician Certificate, her Emergency Medical Technician I/Paramedic Certificate and Certificates in Basic Vehicle Rescue, Basic Rescue Practices and Hazardous Materials Recognition and Awareness.
48. The Commonwealth, in its requirements for the issuance of these certificates, has no provision which excludes insulin-dependent diabetic persons from eligibility for these certificates.
49. Complainant voluntarily withdrew from full-time employment in May, 1992.
50. Any monetary damages to which Complainant may be entitled are calculable from November 1, 1985 the day Complainant would have begun as an Emergency Medical Technician I until April 30, 1992.
51. Complainant's actual earnings for the time during which she could have worked for the City are as follows:

Year	Earnings
1985	$ 1,600.00
1986	11,044.00
1987	16,192.00
1988	19,974.00
1989	21,112.00
1990	21,475.00
1991	21,984.00
1992 (through April)	4,135.00

52. An EMT I who began work for the City on November 1, 1985 received base earnings as follows:

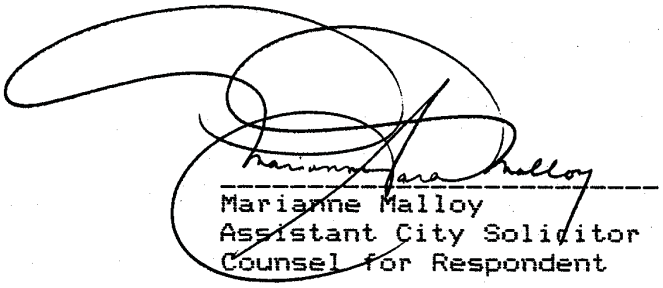
Year	Earnings
1985	$ 2,030.00
1986	13,246.00

53. Paramedics' annual base earnings for the period relevant to damage calculations are as follows:

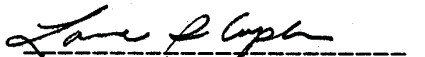
Year	Earnings
1987	$18,218.00
1988	22,605.00
1989	26,075.00
1990	27,497.00
1991	27,498.00
1992 (through April)	9,955.00

54. Paramedic and EMT overtime hours are estimated to be ten percent over base earnings.
55. Complainant would have advanced to a paramedic position approximately one year after she would have begun as an EMT I with the City.

56. Complainant has incurred health insurance expenses in the amount of $180.00.
57. The insulin-dependent diabetic conditions of the firefighter and paramedic hired by the City were unknown to the City at the time these individuals were hired.



Marianne Malloy
Assistant City Solicitor
Counsel for Respondent



Lorraine S. Caplan
Assistant Chief Counsel
Counsel for Complaint

CONCLUSIONS OF LAW

1. The Pennsylvania Human Relations Commission has jurisdiction over the parties and subject matter of this case.
2. The parties have fully complied with the procedural prerequisites to a public hearing in this case.
3. Welker is an individual within the meaning of the Pennsylvania Human Relations Act ("PHRA").
4. The City is an employer within the meaning of the PHRA.
5. Welker has met her initial burden of establishing a prima facie case by proving that:
    a. she belongs to a protected class;
    b. she applied for a position for which she was qualified;
    c. her application was rejected; and,
    d. the City continued to seek applicants of equal qualifications.
6. Welker is a handicapped or disabled person within the meaning of the PHRA and applicable regulations.
7. The City's reliance on Dr. Swan's recommendation was reasonable under the circumstances.

OPINION

This case arises on a complaint filed by Kathleen Welker (hereinafter "Welker"), against the City of Pittsburgh, Department of Personnel and Civil Service Commission (hereinafter "the City"), on or about November 6, 1985, at Docket Number E-35007D. Generally, Welker alleged that the City discriminated against her because of her non-job-related handicap/disability when the City refused to hire Welker as an Emergency Medical Technician. Welker claims that the City's action violated Section 5(a) of the Pennsylvania Human Relations Act of October 27, 1955, P.L. 744, as amended, 43 P.S. §§951 et seq. hereinafter "PHRA"). It is worth noting that the complaint in this case focuses entirely on Welker's October 25, 1985 receipt of a written notice that Welker did not meet the City's physical standards. It appears from the record and brief on behalf of the complaint that an amendment could have included the City's action following

Welker's appeal of the rejection notice of October 25, 1985. However, the record does suggest that such an amendment was ever made in this case.

Pennsylvania Human Relations Commission (hereinafter "PHRC") staff conducted an investigation and found probable cause to credit the allegation of discrimination. The PHRC and the parties then attempted to eliminate the alleged unlawful practice through conference, conciliation and persuasion. The efforts were unsuccessful, and this case was approved for Public Hearing. Because the facts in this matter are not in dispute, the parties were able to reach a significant number of Stipulations and submit this matter on briefs in lieu of a Public Hearing. The City's brief was received on November 2, 1992, and the brief on behalf of the complaint was received on November 3, 1992.

Turning to the general issue arising from the substance of Welker's handicap/disability allegation, we note that the ultimate question for resolution here is whether the City's rejection of Welker's application to be an Emergency Medical Technician violated the PHRA.

Section 5(a) of the PHRA provides in relevant part:

> It shall be an unlawful discriminatory practice...for any employer because of the...non-job-related handicap or disability...of any individual to refuse to hire or employ...such individual, or to otherwise discriminate against such individual...with respect to compensation, hire, tenure, terms, conditions or privileges of employment,...if the individual...is the best able and most competent to perform the services required...
> (43 P.S. 955(a).)

Sections 4(p) and 4(p)(1) provide the Act's only clarification of the reach of the cited portion of Section 5(a). Section 4(p) states:

> 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...

Section 4(p)(1) states:

> The term "handicap or disability" with respect to a person, means:
>
> (1) a physical or mental impairment which substantially limits one or more of such person's major life activities;
> (2) a record of having such an impairment; or
> (3) being regarded as having such an impairment...(43 P.S. 954(p) and (p.l).)

The PHRA provisions are supplemented by applicable regulations promulgated by the PHRC which provide:

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; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine or mental or psycho- logical 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 such 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.)

Non-job-related handicap or disability includes:

(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 employe 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 employe 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 employe or applicant in the job would pose a demonstrable threat of harm to the health and safety of others.
(16 Pa. Code §44.4.)

These definitions have been upheld as a valid exercise of the PHRC's legislative rule-making authority. Pennsylvania State Police v. PHRC, 72 Pa. Commonwealth Ct. 520, 457 A.2d 584 (1983); and see Pennsylvania State Police v. PHRC, 85 Pa. Commonwealth Ct. 621, 483 A.2d 1039 (1984), reversed on other grounds, 517 A.2d 1253 (1986) (appeal limited to propriety of remedy).

The burden of proof applicable to this case was set forth by Pennsylvania's Commonwealth Court in National Railroad Passenger Corporation (AMTRAK) v. PHRC, 70 Pa. Commonwealth Ct. 62, 452 A.2d 301 (1982). Welker must first make out a prima facie case, which she has done here by proving:

1. That she was handicapped within the meaning of the PHRA and applicable regulations at the time of the action she challenges;
2. That she applied for a position for which she was otherwise qualified;
3. That her application was rejected because of her handicap; and,
4. That the City continued to seek qualified applicants.

Generally, the City's argument begins by submitting that Welker is unable to establish a prima facie case. The City readily concedes that Welker has established that she is handicapped/disabled under the PHRA, however, the City suggests that Welker failed to establish a prima facie case because Welker failed to demonstrate she has a "non-job-re1ated" handicap/disability. In this regard, the City's argument is faulty.

In handicap/disability cases under the PHRA the burden of establishing non-job-relatedness is not a burden a Complainant bears as part of the requirement to establish a prima facie case. Instead, Pennsylvania Courts have consistently held that the burden of proof of job-relatedness is on the employer. National Railroad Passenger Corp. (AMTRAK) v. PHRC, 70 Pa. Commonwealth Ct. 62, 452 A.2d 301 (1982). In AMTRAK, the court stated, "Once having established a prima facie case, we agree with the HRC that the burden then shifts to AMTRAK to establish that the Complainant's handicap is job-related and, thus, presents a valid basis for the denial of employment." Here, the City argued that Welker's diabetes was job-related, however, the real issue in this case was on the simple fact that the City relied upon Dr. Swan's opinion and recommendation when it decided to reject Welker. This issue will be explored later. For now, we return to the initial question of whether Welker has established a prima facie case.

Since the City stipulated that Welker is a handicapped/disabled individual within the meaning of the PHRA, Welker meets the first element of the requisite prima facie showing. Regarding the remaining three elements, frankly, there is no dispute that Welker established these elements. Clearly she applied for the position of Emergency Medical Technician and she was well qualified. Equally clear is that she was not selected because she has diabetes. Finally, the City did continue to seek applicants of equal qualifications.

The heart of this case lies in the question of whether the City has articulated a legitimate, non-discriminatory reason for its action. Principally, the City rests its case on the point that the City's refusal to hire Welker was based on an opinion and recommendation of its medical expert. In support of this position, the City cites the case of Action Industries, Inc. v. PHRC, 102 Pa. Commonwealth Ct. 382, 518 A.2d 610 (1986). The court in Action Industries stated that it does "not believe that an employer's rejection of an applicant based upon a recommendation of its medical expert which has some basis in fact, is discrimination as that term is understood and has been applied to conditions of race, color, religious creed or ancestry." 518 A.2d at 613.

Clearly, the City did rely on Dr. Swan's opinion and recommendation in this case and the City has, therefore, articulated a legitimate non-discriminatory reason for its action. Accordingly, it now becomes Welker's burden to show that the City's reason for not hiring her was pretextual and that Welker was the victim of intentional discrimination. Id. at 612, citing, Smith v. B & 0 R.R. Co., 90 Pa. Commonwealth Ct. 186, 494 A.2d 1161 (1985), and International Brotherhood of Teamsters v. U. S., 431 U.S. 324 (1977).

In Action Industries the court noted. "[c]entral to establishing discriminatory intent is the mind-set of the employer at the time of its alleged conduct." The Action Industries court noted there was medical evidence favorable to the Complainant but unknown to the employer at the time of the alleged refusal to hire. The court stated:

> [T]hus, the fact that subsequent to the applicant's rejection certain facts of which the employer was previously unaware come to light, cannot operate to create retroactively an intent to discriminate.

Here, we scrutinize the nature of Welker's complaint. Welker simply alleged that on October 25, 1985, the City refused to hire her because she has diabetes. Technically, the question thus becomes, what did the City know on and before October 25, 1985? It was not until after October 25, 1985 that the City received any positive medical reports regarding the effect of Welker's medical condition. Welker's private doctor, Jerome H. Aarons. M.D., wrote two "to whom it may concern" letters on behalf of Welker. The first letter, dated November 4, 1985 states. "Ms. Kathleen Welker has been examined by me this day and is in excellent health with well controlled Diabetes Mellitus." The second letter, dated November 25, 1985, states:

> Miss Kathleen Welker has Insulin Dependent Diabetes Mellitus. She is under my care for this and has been for several years. She has no complications of the Diabetes. She is in excellent health.
>
> As a specialist in metabolic diseases, it is my medical opinion that she is fully qualified, medically, to work.

Of course, since the alleged action occurred not later than October 25, 1985, the City could not have had this information at the time of the October 25, 1985 notice to Welker. The brief on behalf of the complaint and much of the evidence in this case exceeds the scope of the allegation here in that the full picture of Welker's rejection was reviewed.

The October 25, 1985 timeframe only began the process which eventually concluded in Welker's ultimate rejection for employment. It is more than curious that the complaint in this case was not amended to include the full picture.

Technically, this case is limited to the allegations as drafted, however, since both sides arguments have chosen to exceed the scope of the limited allegation it would appear that both sides intended to pursue an analysis of events which occurred after October 25, 1985. The full analysis is reviewed here because the result remains the same.

Following the October 25, 1985 notice, Welker appealed her rejection and between October 25, 1985 and the City's ultimate decision to reject Welker, the City was provided with more information about Welker. The issue would then become, was the City's reliance on Dr. Swan's opinion reasonable under the circumstances. Basically, Action Industries notes three situations where an employer's reliance on a physician's opinion does not insulate the employer from liability: (1) if a complainant can show the employer's reliance upon the doctor's opinion was unreasonable; (2) if an employer can be shown to have paid a doctor only if a prospective employee is found unsuitable; or (3) if it can be shown that an employer advised a doctor to declare all Blacks, women, etc. "unfit". Neither the second or third possible situations have been either shown or even attempted to be shown here. Thus, the entire focus is on the question of whether the City's reliance on Dr. Swan's opinion was reasonable.

The brief on behalf of the complaint urges a finding that the City's reliance here was unreasonable. Generally, the brief on behalf of the complaint argues that the available medical evidence showed Welker's diabetes was in good control. Further, there was work history information that Welker
had been doing work for the previous 6 years as an EMT for a neighboring municipality, and also had been working full time as a security guard.

This information was presented to the City during Welker's appeal hearing on November 26, 1985. Generally, Welker's position was pursued at her appeal hearing through documentary evidence. The record of Welker's appeal contains both of Dr. Aaron's letters; a letter from Welker's employer, Gold Circle, generally indicating Welker was a responsible and dependable employee and a letter from the Chairman of Baldwin Borough's Board of Directors which generally submits that Welker's diabetes had not affected her performance as a member of Baldwin's emergency medical service.

While these documents tend to suggest Welker would have been able to work as an EMT for the City, the record also contained the testimony of Dr. Swan and materials in support of her opinion that Welker should not be hired because of her condition. Generally, Dr. Swan's information suggested that there are certain lifestyle limits which medical experts recommend are advisable with regard to individuals with Welker's degree of diabetes.

Swan had indicated that her opinion and recommendation grew out of her review of Welker's medical history, independent research, and a belief that Welker appeared to be in denial with respect to the need to have a concern for limits on activities. Dr. Swan generally indicated that

statistically the City's EMT position posed both short term and long term serious consequences for a diabetic. The City's EMT position required periodic working on all shifts. Dr. Swan pointed to medical reports which indicate that diabetics should work steady shifts. Additionally. Dr. Swan suggested that City EMT's frequently had to work double shifts.

Diabetes was described as a disease in which the body does not produce or properly use insulin. a substance the body requires to convert food into life supporting energy. Diabetes has the capacity to bring on serious complications which involve nearly every body tissue. As of yet, diabetes has no cure but it can be controlled to a degree. Welker's condition was described as having been under good control. Dr. Swan's stated concerns generally noted how the control factors would likely be either
disrupted or subject to disruption if Welker were hired as an EMT.

Dr. Swan noted that medical reports continually suggest that insulin dependent diabetics should not be assigned to a position in which an inadvertent insulin reaction could endanger either themselves or others around them. Dr. Swan's evidence to the appeal board and earlier opinion was based upon her medical perception that certain aspects of the job of EMT would place Welker, co-workers, and the public in danger should Welker ever have a reaction.

The EMT position was described as including the likelihood of working in high places, a stressful environment, and in an environment not conducive to regular eating habits. All of these factors were said to relate to the issue of proper life style control of diabetes.

Once again, the question here is whether the City's reliance on Dr. Swan's opinion was reasonable. Here. during a deposition, Welker's own doctor generally testified that the City's concerns which were raised by Dr. Swan were not unreasonable. (Dr. Aaron's deposition p.23). It is, of course, Welker’s burden in this case to prove that the City unreasonably relied on Dr. Swan's opinion and recommendation. Considering the record as a whole, Welker has failed to meet this burden.

Here, the evidence considered as a whole demonstrates that the City reasonably relied upon the advice of Dr. Swan in forming its perception, and for that reason alone, rejected Welker. Accordingly, this matter should be dismissed. An appropriate Order follows.

COMMONWEALTH OF PENNSYLVANIA
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KATHLEEN WELKER, Complainant

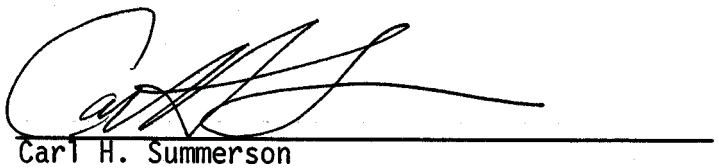
v.

CITY OF PITTSBURGH, DEPARTMENT OF PERSONNEL AND CIVIL SERVICE COMMISSION, Respondent

DOCKET NO. E-35007D

RECOMMENDATION OF PERMANENT HEARING EXAMINER

Upon consideration of the entire record in the above-captioned matter, the Permanent Hearing Examiner finds that the Complainant has failed to prove discrimination in violation of Section 5(a) of the Pennsylvania Human Relations Act. It is, therefore, the Permanent Hearing Examiner's recommendation that the attached Joint Stipulation 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.



Carl H. Summerson
Permanent Hearing Examiner

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DOCKET NO. E-35007D

FINAL ORDER

AND NOW, this 7th day of April, 1993, 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 Joint Stipulation of Fact, Conclusions of Law and Opinion of the Permanent Hearing Examiner. Further, the Commission adopts said Joint Stipulations of Fact, Conclusions of Law and Opinion as its own findings in this matter and incorporates the Joint Stipulation of Fact, Conclusions of Law and Opinion into the permanent record of this proceedings, 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
Robert Johnson Smith, Chairperson

ATTEST:

Russell S. Howell
Russell S. Howell, Assistant Secretary