COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

HELENA M. WHITEST, Complainant
v.
CHILDREN'S HOSPITAL OF PHILADELPHIA, Respondent

DOCKET NO. E80048D

STIPULATIONS OF FACT

FINDINGS OF FACT

CONCLUSIONS OF LAW

OPINION

RECOMMENDATION OF PERMANENT HEARING EXAMINER

FINAL ORDER

FINDINGS OF FACT *

1. The Respondent, Children's Hospital of Philadelphia (hereinafter "CHOP"), has 14 clinical laboratories, three of which are core labs: chemistry, hematology, and microbiology. (NT 102, 231; K Dep. 18.)

2. At all times relevant to this case, CHOP employed medical technologists who performed tests in CHOP's labs. (NT 51-52, 102.)

3. CHOP had three shifts during which full- and part-time medical technologists worked: first (day shift), second (evening shift), and third (night shift). (NT 212; K Dep. 9-10; M Dep. 6-7, 22.)

4. First shift medical technologists were assigned to work in a specific lab, while medical technologists on the second and third shifts were generalists who rotated through all the labs. (NT 231; K Dep. 10; M Dep. 6-7, 19-20.)

* 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
K Dep.	Deposition of Joseph Kaz
M Dep.	Deposition of Bernadette Matthis
NT	Notes of Testimony
SF	Stipulations of Fact

5. Generalist medical technologists were senior medical technologists because they could work in multiple areas. (NT 102, 212, 231; M Dep. 7, 19-20.)

6. At all relevant times, the night shift in CHOP's labs consisted of three full-time senior medical technologists and a night supervisor. (M Dep. 7, 22.)

7. Part-time medical technologists filled in when someone called off, and on weekends. (M Dep. 7, 22.)

8. Because the analytical tasks were primarily manual, the hematology lab functions were considered to be the most difficult of the core lab functions. (NT 238; M Dep. 10.)

9. In or about January 1996, CHOP's full-time night shift lab staff included: Theresa Ott, African American; Pilar Miranda, Asian American (Filipino); Geraldine Hobbs, African American; and night supervisor, Bernadette Matthis, African American. (CE 5; M Dep. 70-71.)

10. Part-time night shift lab staff included: Lilia Gaano, Asian American; Anthony Wong, Asian American; and Hei-Kyoung Choi, Asian American. (CE 5; M Dep. 29-30, 70-71.)

11. In January 1996, Theresa Ott left CHOP's employ, and her position was filled by Anthony Wong. (NT 111, 115; M Dep. 30, 36.)

12. The night shift supervisor normally makes hiring decisions for her shift unless she is unavailable; then CHOP's administrative director of clinical labs, Joseph Kaz (hereinafter "Kaz"), becomes directly involved in hiring decisions. (NT 90; K Dep. 7-8.)

13. If the night shift supervisor made a hiring decision, Kaz still had to approve the decision. (NT 91.)

14. The Complainant, Helena Whitest (hereinafter "Whitest") is an African American individual. (NT 66.)

15. Whitest earned an associate's degree in medical technology from Hahnemann University Medical Center, and in 1987 she earned her B.S. degree. (NT 36.)

16. Whitest initially applied to become and was accepted as a CHOP employee in 1986. (NT 37-38, 39, 100; CE 6.)

17. Between 1992 and approximately April 1996, Whitest worked part-time in CHOP's chemistry lab. (NT 89, 103; M Dep. 46.)

18. Whitest's work schedule at CHOP was varied: sometimes she worked every other weekend, sometimes one day a month, other times only a few hours per week. (NT 103-104; K Dep. 25.)
19. When assigned to the chemistry lab, Whitest did not perform hematology work. (NT 92, 96, 107.)

20. Since 1992, Whitest was a full-time employee at the Hospital of the University of Pennsylvania (hereinafter "HUP"). (NT 89.)

21. At HUP, between 1992 and 1996, Whitest primarily worked in HUP's chemistry lab. (NT 62, 150, 209.)

22. Whitest had no hematology experience with HUP. (NT 217.)

23. In 1994, Whitest was also certified in medical technology by The American Society for Clinical Pathologists. (NT 37, 204, 205-206.)

24. Bernadette Matthis (hereinafter "Matthis"), CHOP's night shift supervisor, informed Kaz that she would be leaving CHOP. (M Dep. 12, 14, 62-63.)

25. When Matthis left CHOP, Pilar Miranda, a night shift medical technologist, was moved up to fill Matthis' vacancy. (NT 234.)

26. Thus, the night shift opening was to replace Miranda. (K Dep. 14.)

27. Whitest filed a request for transfer and a letter of interest with CHOP expressing interest in the night shift opening. (NT 56.)

28. Matthis informed Whitest that her departure would create a full-time opening on the night shift staff. (NT 120.)

29. Adelia Mendoza (hereinafter "Mendoza") also applied for the full-time position on the night shift at CHOP. (M Dep. 48; K Dep. 25.)

30. In addition to having a degree in medical technology and being qualified to be a senior medical technologist, Mendoza's experience included recent work in hematology. (K Dep. 25-26; M Dep. 48-49.)

31. Matthis interviewed both Whitest and Mendoza. (NT 120; M Dep. 42-43, 48.)

32. Matthis advised Susan Shibutani (hereinafter "Shibutani"), the supervisor of CHOP's hematology lab, of the night shift opening. (NT 233.)

33. At Whitest's interview with Matthis, Matthis informed Whitest that the need on the night shift was for someone strong in hematology. (M Dep. 45.)

34. Matthis knew Whitest worked in the chemistry lab. (M Dep. 45.)

35. Both Matthis and Mendoza were given a hematology differential slide test which consisted of an applicant looking at four specimens under a microscope and notating any abnormal cells found. (NT 54, 121; M Dep. 14.)

36. The hematology slide test was given because it was important that the technologist hired be strong in the hematology area (K Dep. 30-31.)

37. Matthis and Shibutani reviewed and graded Whitest's and Mendoza's slide test results. (NT 243; M Dep. 15, 59.)

38. Mendoza noted more abnormalities than Whitest. (NT 245, 251, 268; M Dep. 49, 59.)

39. Matthis also spoke to individuals who worked with Whitest and Mendoza. (M Dep. 49, 54, 69.)

40. Individuals who worked with Mendoza recommended her, and her supervisor told Matthis that Mendoza's performance was excellent. (M Dep. 49, 54, 69.)

41. From Mendoza's resume Matthis also formed an impression that Mendoza was a generalist with expertise in hematology. (M Dep. 48.)

42. When Matthis contacted a supervisor of Whitest's, the supervisor told Matthis that Whitest's job performance was mediocre. (M Dep. 54, 69.)

43. After her review of the test results and backgrounds of Whitest and Mendoza, Matthis concluded that Mendoza was better suited to fill the night shift position. (M Dep. 16.)

44. Primarily because of Mendoza's hematology skills, Matthis recommended to Kaz that Mendoza be given the night shift position. (M Dep. 12, 14, 16, 62-63, 64, 73.)

45. Before she knew who the applicants were, Shibutani recommended to Kaz that the person selected should be highly skilled in hematology. (NT 234, 241, 243, 248; K Dep. 15.)

46. Later, Shibutani advised Kaz that Mendoza had done better on the hematology slide test. (NT 276.)

47. Kaz interviewed Whitest and during the interview told Whitest that she had the most chemistry lab experience, and Mendoza had the most hematology lab experience. (K Dep. 53-54.)

48. Kaz selected Mendoza in reliance on both Shibutani's and Matthis' recommendations regarding the needs of the night shift, and because Mendoza had performed better on the hematology slide test. (K Dep. 31, 59, 60.)

49. Approximately one to two weeks after Kaz interviewed Whitest, Kaz called Whitest and told her that Mendoza had been chosen because she had more hematology experience. (NT 60, 61.)

50. Whitest went to CHOP's human resource department and asked that Mendoza's qualifications be investigated. (NT 61, 159.)

51. Whitest was later informed by CHOP's human resource department that Mendoza had hematology experience and her qualifications were fine. (NT 164, 167.)

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. Helena Whitest is an individual within the meaning of the Pennsylvania Human Relations Act (hereinafter "PHRA").

4. Children's Hospital of Philadelphia is an employer within the meaning of the PHRA.

5. Whitest 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 position was awarded to an applicant with either the same or fewer qualifications that Whitest's, and who is not a member of her protected class.

6. Children's Hospital of Philadelphia articulated legitimate, nondiscriminatory reasons for refusing to select Whitest.

7. Whitest has not proven that the reasons offered by Children's Hospital of Philadelphia are pretextual.

OPINION

This case arises on a complaint filed on or about July 29, 1996, by Helena M. Whitest (hereinafter "Whitest") against Children's Hospital of Philadelphia (hereinafter "CHOP") with the Pennsylvania Human Relations Commission (hereinafter "PHRC"). Whitest's complaint alleges that she was not selected for the position of senior medical technologist on CHOP's night shift because of her race, African American. This race-based allegation alleges a violation of 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").

PHRC staff investigated the allegation, and at the investigation's conclusion informed CHOP that probable cause existed to credit Whitest's allegation. Thereafter, the PHRC attempted to elimi-

nate the alleged unlawful practice through conference, conciliation and persuasion, but such efforts proved unsuccessful. Subsequently, the PHRC notified the parties that it approved a public hearing.

The public hearing was held on August 11, 1999, in Philadelphia, Pennsylvania, before PHRC Permanent Hearing Examiner Carl H. Summerson. Whitest was represented by Andrew F. Erba, Esquire, and the PHRC's interest in the complaint was overseen by Assistant Chief Counsel Pamela Darville. Michael S. Burkhardt, Esquire, appeared on behalf of CHOP. The parties were afforded an opportunity to submit briefs. Whitest's post-hearing brief was received on November 17, 1999, and CHOP's brief was received on November 16, 1999. A brief on behalf of the PHRC's interest in the complaint was received on November 12, 1999.

In this disparate treatment case, Whitest alleges that CHOP treated her less favorably than another applicant because of her race, African American. To prevail, Whitest is required to prove that CHOP had a discriminatory intent or motive in failing to select her. *Allegheny Housing Rehabilitation Corp. v. PHRC*, 516 Pa. 124, 532 A.2d 315 (1987).

Since direct evidence is very seldom available, we consistently apply a system of shifting burdens of proof, which is *"intended progressively to sharpen the inquiry into the elusive factual question of intentional discrimination." Texas Department of Community Affairs v. Burdine*, 450 U.S. 248, 254 n.8 (1981). Whitest must carry the initial burden of establishing a *prima facie* case of discrimination. *Allegheny Housing*, *supra*; *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802 (1973). The phrase "*prima facie* case" denotes the establishment of a legally mandatory, rebuttable presumption, which is inferred from the evidence. Burdine, 450 U.S. at 254 n.7. Establishment of the *prima facie* case creates the presumption that the employer unlawfully discriminated against the employee. *Id.* at 254. The *prima facie* case serves to eliminate the most common nondiscriminatory reasons for the employer's actions. *Id.* It raises an inference of discrimination *"only because we presume these acts, if otherwise unexplained, are more likely than not based on the consideration of impermissible factors." Furnco Construction Corp. v. Waters*, 438 U.S. 567, 577 (1978).

In *McDonnell Douglas*, the U.S. Supreme Court held that a plaintiff may prove a *prima facie* case of discrimination in a failure-to-hire case by demonstrating:

> (i) that he belongs to a racial minority;
> (ii) that he applied and was qualified for a job for which the employer was seeking applicants;
> (iii) that, despite his qualifications, he was rejected; and
> (iv) that, after his rejection, the position remained open and the employer continued to seek applicants from persons of complainant's qualifications. *Id.* at 802.

Although the *McDonnell Douglas* test and its derivatives are helpful, they are not to be rigidly, mechanically, or ritualistically applied. The elements of the *prima facie* case will vary substantially according to the differing factual situations of each case. *McDonnell Douglas*, 411 U.S. at 802, n.13. They simply represent a *"sensible, orderly way to evaluate the evidence in light of common experience as it bears on the critical question of discrimination." Shah v. General Electric Co.*, 816 F.2d 264, 268 43 FEP 1018 (6th Cir. 1987).

Here, we only slightly adapt the *McDonnell Douglas* test. To establish a *prima facie* case here, Whitest must show:

1. that she is a member of a protected class;
2. that she applied for and she was qualified for a position for which CHOP was seeking applicants;
3. that, despite her qualifications, Whitest was denied the position; and,
4. that the position was awarded to an applicant with either equal or less 4 qualifications than Whitest, and who is a different race than Whitest. *PHRC v. Johnstown Redevelopment Authority*, 527 Pa. 71 588 A.2d 497.

Once Whitest establishes a *prima facie* case, the burden shifts to CHOP to "*articulate some legitimate, nondiscriminatory reason"* for its actions. *McDonnell Douglas*, 411 U.S. at 802. CHOP must rebut the presumption of discrimination by producing evidence of an explanation, *Burdine*, 450 U.S. at 254, which must be *"clear and reasonably specific," Id.* at 285, and *"legally sufficient to justify a judgment"* for CHOP. *Id.* at 255. However, CHOP does not have the burden of *"proving the absence of discriminatory motive." Board of Trustees v. Sweeney*, 439 U.S. 24, 25, 18 FEP 520 (1982).

If CHOP carries this burden of production, Whitest must then satisfy a burden of persuasion and show that the legitimate reasons offered by CHOP were not its true reasons, but were a pretext for discrimination. *McDonnell Douglas*, 411 at 804. This burden now merges with the burden of persuading us that she has been the victim of intentional discrimination. *Burdine*, 450 U.S. at 256. The ultimate burden of persuading the trier of fact that CHOP intentionally discriminated against Whitest remains at all times with Whitest. *Id.* at 253.

On the initial question of whether Whitest can establish a *prima facie* case, there is no dispute in this case that Whitest is a member of a protected category, that she applied for an open position, that she was denied the position, and that the position was awarded to an Asian American.

Turning to the question of a complainant's burden to establish that they were qualified for a position, the Pennsylvania Supreme Court has noted that it is appropriate that the burden of establishing a *prima facie* case should not be onerous. *Allegheny Housing*, *supra*, at 318, 319. Being mindful of this instruction, the evidence presented in this case on the issue of Whitest's qualifications is sufficient to put CHOP in the position of offering a reason for its refusal to select Whitest. Clearly, CHOP considered Whitest qualified for the position.

The remaining question in the *prima facie* area is whether Whitest established that she was either better qualified, or at least as well qualified, as Mendoza. *Johnstown Redevelopment Authority*, *supra,* at 500. Again, we are mindful that the Complainant's burden in this regard should not be onerous. Beyond the simple fact that both Whitest and Mendoza met the requisite minimum qualifications for the position, there are several considerations which support the conclusion that Whitest has established that she was at least as qualified as Mendoza. First, both Whitest and Mendoza had functioned as senior medical technologists, and both passed the differential hematology slide test. Mendoza's experience in hematology and a better score on the slide test were said to make the difference.

While Mendoza's qualifications can be described as different than Whitest's, this factor of hematology experience fails to distract us from finding that Whitest's experience and qualifications, considered as a whole, were at least as good as Mendoza's qualifications. Here, Mendoza's qualifi-

cations, although different, cannot be said to have been better than Whitest's. A lengthy quote from *Allegheny Housing*, *supra*, is appropriate here:

> *There is bound to be confusion where, as here, part of the employer's explanation attacks the plaintiff's qualifications for the job. If a plaintiff must* **prove** *a prima facie case by producing evidence of her qualifications before the defendant is obligated to proceed with a defense, there will almost of necessity be, at the close of the plaintiff's case in chief, evidence that she was qualified sufficient to avoid [disqualification]. At that point no evidence has been admitted on the other side. When the employer then produces evidence of disqualification, this could be understood either as an attack on the elements of the prima facie case, or as an attempt to meet the employer's burden of offering a legitimate, nondiscriminatory reason. Regardless of its characterization, however, its impact is the same. The employer, understandably, would prefer not to have to offer a defense at all until a more substantial case had been presented against it. Nevertheless, in the interest of having the ultimate question of discrimination resolved on the merits rather than for procedural failings such as lack of specificity, given the importance of circumstantial proof in such cases, it is appropriate to the remedial purpose of the Act that the prima facie case not be an onerous one. Allegheny Housing* at 318-319.

Under the circumstances presented here, we find that Whitest has established that she was at least as qualified as Mendoza and that Whitest therefore successfully established all of the requisite elements of a *prima facie* case. Having so found, we move to the question of whether CHOP has articulated a legitimate, nondiscriminatory reason for not selecting Whitest. On this question we find that CHOP has met this burden of production.

Several general reasons were advanced by CHOP in support of its position that nondiscriminatory reasons motivated Mendoza's selection over Whitest. Generally, CHOP asserts that the choice of Mendoza over Whitest was based on CHOP's decision to select the applicant with the most hematology skills. CHOP submits that hematology tests are the most difficult to perform because they are done manually, while other lab functions are principally automated. For this reason, CHOP argues, candidates for all senior medical technician positions at CHOP are given an objective slide differential hematology test. In this instance, CHOP suggests that Kaz was told by both CHOP's hematology supervisor, Shibutani, and the night shift supervisor, Matthis, that the night shift needed someone strong in hematology skills. Additionally, when Whitest and Mendoza were given the slide test, Kaz learned that Mendoza had performed better than Whitest. Kaz also understood that Mendoza's recent lab experiences were in hematology, while Whitest's were in chemistry.

These collective factors sufficiently meet CHOP's burden of production, thereby shifting the burden of proof to Whitest to establish that these reasons are pretextual. To show pretext, Whitest may directly persuade us that a discriminatory reason more likely motivated CHOP, or indirectly by showing that CHOP's proffered explanation is unworthy of credence. *Burdine*, *supra.*

At the public hearing and in her post-hearing brief, Whitest advances several theories of pretext. For instance, at the public hearing Whitest suggested that she was not selected because CHOP wanted Filipinos on the third shift, and not African Americans. When the evidence is reviewed, Whitest's claim can be seen for what it is: pure speculation unsupported by the facts. Just before Ott left CHOP, the full-time night shift senior medical technologists were two African Ameri-

cans and one Asian American (Filipino). Additionally, Matthis, the night supervisor, was also an African American. The three part-time medical technologists, while Asian Ameri-cans, were not Filipino, as assumed by Whitest. When Matthis left, Miranda, one of the full-time senior medical technologists, was promoted to the night shift's lead technologist position, creating the opening for which Whitest applied.

It appears that Whitest may have felt that because two African Americans left the night shift, she somehow should have had an advantage because she too is African American. In fact, Whitest testified that she believed Matthis was not only fairly and honestly encouraging her to seek the position once it came open, but was actively assisting her. Further, the record shows that Matthis did interview Whitest and gave her the hematology slide test. However, the record is very clear that Matthis also recommended to Kaz that the person eventually selected should have strong hematology skills. It must have come as quite a surprise to Whitest to learn that Matthis' communications to Kaz went even further. Matthis actually told Kaz that she recommended that Mendoza be selected.

The evidence was undisputed that Matthis had consulted supervisors of both Whitest and Mendoza and was informed that Mendoza was "excellent" and Whitest was "mediocre." The evidence is also undisputed that Mendoza had both superior experience in hematology and better scores on the slide test. Whitest agreed that the test was appropriate and both given and scored in a nondiscriminatory manner.

In her post-hearing brief, Whitest does suggest that the slide test results should be discounted because the documents produced by herself and Mendoza when notating their findings after viewing the four slides were not produced by CHOP. Whitest suggests that these documents had been destroyed. However, the precise status of the documents was left unexplored. While Whitest points to CE 1 as evidence that the documents in question were destroyed, CE 1 in no way supports such an assumption. In fact, CE 1 is of no use regarding the status of the documents in question. CE 1 is a June 27, 1997 letter from the PHRC investigator to CHOP's attorney requesting additional information for the investigation of Whitest's claim. While the letter requests "pre-employment applications, internal work histories, certificates/awards/diplomas, and other documents illustrating credentials and experience of all senior medical technologists assigned to the 'late shift' at any time during January 1995 through January 1997 . . .", it does not ask for either Whitest's or Mendoza's responses to the slide test they were given. As such, it appears that these documents may have never even been requested. To say they were "destroyed" and penalize CHOP regarding the evidence of who performed better on the test would be inappropriate. In order to disallow such evidence, Whitest was obliged to show that CHOP knowingly destroyed or failed to maintain these documents in anticipation of Whitest's charge, or because an investigation was underway, or otherwise with an intent to defeat the purposes of the PHRA. Here, Whitest's effort falls far short of a showing that CHOP in any way attempted to frustrate the search for the truth about the test results. Before any adverse inference can be drawn, there must be evidence that documents were either destroyed in bad faith or from a consciousness of a weak case. *See*, *Nation-Wide Check Corp., Inc. v. Forest Hills Distributors, Inc., et al.*, 692 F.2d 214 (1st Cir. 1982), *citing Allen Pen v. Springfield Photo Mount Co.,* 653 F.2d 17 (1st Cir. 1981).

In this case, Whitest agreed that Mendoza had superior experience in hematology. What Whitest does is to suggest that she had not been told that strong hematology experience was a factor in the selection to fill the night shift opening. In this regard, Whitest's testimony sharply conflicts with both Kaz and Matthis. Both Kaz and Matthis submit that Whitest was specifically told of

CHOP's interest in a candidate with strong hematology skills. Kaz credibly testified that he not only told Whitest that Mendoza had the most hematology experience (K Dep. 53-54), but that he specifically told Whitest that there would be a hematology test because he was looking for someone strong in hematology. (K Dep. 48-49.) Kaz further indicates that when he called Whitest to tell her that Mendoza was selected, he informed Whitest that Mendoza was selected because she had more hematology experience. (K Dep. 61.) Matthis also credibly testified that she too told Whitest that the need on the night shift was for someone with strong hematology experience. (M Dep. 45.)

Without dispute, it was customary for CHOP to give a hematology test to all applicants. Credible testimony shows that manual hematology analysis is more difficult than other lab analysis. Further, and very telling, when Whitest learned that Mendoza was selected, Whitest went to CHOP's human resources department to ask that Mendoza's qualifications be investigated. (NT 61, 159.) The result of the investigation was that Whitest was told that, indeed, Mendoza had hematology experience. (NT 167.)

The overwhelming weight of evidence reflects that at every stage, Whitest was advised that CHOP was interested in strong hematology skills on the night shift. Whitest heard this over and over because CHOP, in fact, was of the opinion that the needs of the small staff on the third shift would be best served by hiring a senior medical technologist with strong hematology skills. Throughout the process, CHOP's articulated reasons have been consistent. CHOP was candid to Whitest in her interviews with Kaz and Matthis and when she was told why Mendoza had been selected. At no time have CHOP's articulated reasons changed.

In effect, Whitest's post-hearing brief suggests that her superior chemistry experience was what CHOP really needed. In this regard we find that, in fact, CHOP considered hematology skills as the decisive factor. As CHOP's post-hearing brief observes, the law is well-settled that the wisdom and accuracy of an employer's business judgment are not at issue in a discrimination case. *See Fuentes v. Perskie*, 32 F.3d 759 (3rd Cir. 1994). Whitest would have us restrict CHOP to consideration of the applicants in a way which would assure that Whitest would be viewed as more qualified. However, CHOP was free to decide what was important to them so long as that decision was not motivated by unlawful discrimination.

In summary, Whitest has not produced substantive evidence in support of her burden to show that hematology experience and her lower test score were a pretext for race-based discrimination. In fact, there is nothing in the record to suggest as a reasonable probability that Kaz did not truly believe that strong hematology skills would be good for the night shift position, and that Mendoza had both a better test score and more hematology experience. The justifications advanced by CHOP are the considerations made at the time the employment decision was made and have not been shown to be after-the-fact rationalizations.

For these reasons, an order dismissing Whitest's claim follows.

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

HELENA M. WHITEST, Complainant
v.
CHILDREN'S HOSPITAL OF PHILADELPHIA, Respondent

DOCKET NO. E80048D

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 has failed to prove discrimination in violation of Section 5(a) of the Pennsylvania Human Relation Act. 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.

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

HELENA M. WHITEST, Complainant
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CHILDREN'S HOSPITAL OF PHILADELPHIA, Respondent

DOCKET NO. E80048D

FINAL ORDER

AND NOW, this 29th day of February, 2000, 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 findings in this matter and incorporates same into the permanent record of this proceeding, to be served on the parties to the complaint and hereby

O R D E R S

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

PA HUMAN RELATIONS COMMISSION