

**COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION**

Kathleen Giberson,	:	
Complainant	:	
v.	:	PHRC Case No. 201702696
	:	EEOC Charge No. 530-2018-01259
Arnold's Office Furniture Company Inc.¹	:	
Respondent	:	

STATEMENT OF THE CASE

FINDINGS OF FACT

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OPINION

RECOMMENDATION OF PERMANENT HEARING EXAMINER

FINAL ORDER

¹ On Respondent's post-hearing brief, counsel for Respondent's signature block identified Respondent as Arnold's Office Furniture LLC. However, on the Pre-Hearing Conference Report submitted on July 7, 2023, by Respondent's former counsel to the Office of the Hearing Examiner, the above caption was marked as correct.

STATEMENT OF THE CASE

DARLENE MARTIN,² PERMANENT HEARING EXAMINER, A virtual public hearing was held in this matter on August 20, 2024. Complainant Kathleen Giberson (hereinafter Giberson or Complainant) dual filed a Complaint in PHRC Case No. 201702696 against Arnold's Office Furniture Company Inc. (hereinafter Arnold's or Respondent).³ The Complainant's Complaint alleged that Respondent discriminated against her on the basis of her disability by terminating her on her second day of employment. Respondent filed a timely Answer denying the allegations set forth in the Complaint. At the public hearing, Complainant was represented by Kimberly Ashbach Esquire. Respondent was represented by Nancy Abrams, Esquire. Robert Taylor, Esquire represented the Commonwealth's interest in the case.

² The Hearing Examiner got married after the public hearing, but prior to drafting the recommendation. Her last name changed from Hemerka to Martin.

³ The Complaint was amended multiple times with minor changes.

FINDINGS OF FACT⁴

1. Complainant is Kathleen Giberson (hereinafter Giberson or Complainant).
2. Respondent is Arnold's Furniture Company Inc. (hereinafter Arnold's or Respondent).
3. Jay Berkowitz (hereinafter Berkowitz) is a partner and CEO of Arnold's. Tr. 153.
4. Respondent did not have a full-time human resource person; the accounting person was certified as a human resource officer and served a dual function. Tr. 155. At the public hearing, the accounting person was identified as Linda Mansi.
5. Giberson suffers from a chronic major depressive disorder and anxiety since 1989. At all times relevant to this matter, she has been treated and continues to be treated with counseling and medication. J.S. ¶3.⁵
6. In August 2017, Giberson applied for a position at Respondent, as a "Project Coordinator." Tr. 39, PHRC 3.
7. Complainant interviewed with Mark LePine (hereinafter LePine) Tr. 40.
8. Giberson never received a job description. *Id.*
9. A few days after interviewing with LePine, Giberson met with Berkowitz. Tr. 42.
10. During the interview, Giberson appeared competent and had the qualities Respondent needed. Tr.180.
11. On or about November 22, 2017, Giberson received a written offer to work at Arnold's as a Sales Support Specialist at an annual salary of \$60,000.00 with an opportunity for a 5%

⁴ Abbreviations

Tr.= Hearing Transcript

H.E.= Hearing Examiner Exhibit

PHRC= Complainant Exhibit

R.E.= Respondent Exhibit

J.S. = Joint Stipulations

⁵ In the Joint Stipulations the parties refer to Giberson as either Giberson or Plaintiff. The Hearing Examiner used Giberson or Complainant to be consistent with the language of the Pennsylvania Human Relations Act.

increase in salary after ninety days. J.S. ¶10.

12. Respondent also offered health insurance after ninety days, a 401(k), fitness membership and lunch pay. PHRC 4.

13. On or about November 22, 2017, Giberson accepted the job offer from Arnold's via email to Mark LePine. J.S. ¶11.

14. On November 26, 2017, LePine asked Complainant via e-mail to "please keep us posted on when you'll be able to start!" J.S. ¶12.

15. Complainant advised Respondent that she needed a few weeks to get herself prepared to start, and Arnold's agreed to the same. J.S. ¶13.

16. In December 2017, Giberson voluntarily admitted herself to Pottstown Memorial Hospital because she was having daily panic attacks. J.S. ¶14.

17. Giberson received medication for her anxiety and depression while being treated at Pottstown, but at the time of her discharge her medications were still undergoing review and updating and were still not yet properly balanced. J.S. ¶15.

18. Complainant was scheduled to work at Arnold's Monday through Friday from 10:00 a.m. to 6:00 p.m. J.S. ¶17.

19. On December 13, 2017, Giberson informed LePine that she had prescheduled doctor's appointments and asked that her schedule be changed to 9:00 a.m. to 5:00 p.m. to accommodate her appointments. J.S. ¶18.

20. Arnold's agreed to change her hours to 9:00 a.m. to 5:00 p.m. on the days she had doctor's appointments. J.S. ¶19.

21. On December 16, 2017, Giberson disclosed to LePine the following by text: "Mark, I am looking forward to starting work. These last few weeks I had been treated for anxiety

issues. I'm still in the process of getting the right balance and getting better. Keeping busy should keep me focused. I feel you should know about my ongoing treatment." J.S. ¶16.

22. LePine admitted that "little red flags" went up when he received this message. Tr. 256.

23. Complainant reported to work at Arnold's on Monday, December 18, 2017. J.S. ¶20.

24. LePine testified that Respondent was still trying to figure out what Giberson would do. Tr. 214.

25. Giberson testified that she was given brochures and told to look at the website. Tr. 70.

26. Giberson saw two guys in the back of the store put a panel on upside down. Tr. 77.

27. LePine testified that "she told me about this demo cube and she noticed that a panel was off or something like that. And I gave her credit for that because it did seem like that was the case." Tr. 258.

28. Berkowitz testified that "Complainant was somehow impaired, not able to work that day, she didn't do- couldn't do anything." Tr. 171.

29. When LePine communicated with Giberson near the end of her work shift on the first day it made him feel "a little depressed in communicating with her." Tr. 262.

30. LePine was worried how Giberson's affect would impact other people's mood and their productivity. *Id.*

31. He didn't want that [attitude around the office] for himself, but also for all the other people, especially since he had so many people coming up to him sharing the same sentiment. Tr. 264.

32. Berkowitz does not hire or terminate most of the employees. Tr. 184.

33. LePine or Mansi could terminate Giberson without his authority. *Id.*

34. Complainant reported for her second day of work. Tr. 85.

35. After approximately one hour, LePine brought Giberson into Human Resources. Tr. 86.

36. Giberson was terminated. Tr. 86-7.

37. LePine testified that Respondent “offered her a pause for 60-90 days and asked her to call back in two weeks to check in and see how things were going.” Tr. 266.

38. LePine admitted that he never requested medical documentation from Complainant or followed up with her about when she could return to Respondent. Tr. 266-67.

39. LePine also testified, “We figure the first day, let's just stop it before it starts - before it gets really bad and kind of cut our losses at this point.” Tr. 238.

40. He also admitted that during the conversation with human resources it was suggested that Giberson could get a part time job. *Id*

41. In February 2018, Giberson began driving for Uber on a part-time basis. Giberson was self-supporting at this time, responsible for all of her bills and expenses. J.S. ¶ 27.

42. On July 17, 2018, Giberson began receiving care at Belmont Psychological Associates for anxiety and depression because she did not believe she was receiving proper treatment and help at Central Behavioral Health stating she sought their services because “My medications are all wrong and I am not functioning.” J.S. ¶ 25

43. The parties stipulated that Giberson earned \$43,827.00 in 2017 and \$13,505.00 in 2018. J.S. ¶ 30.

CONCLUSIONS OF LAW

1. The Pennsylvania Human Relations Commission (hereinafter PHRC) has jurisdiction over the parties and the subject matter of this case.
2. The parties and the Commission have fully complied with the procedural prerequisites to a public hearing in this case.
3. Complainant is an individual within the meaning of the Pennsylvania Human Relations Act (hereinafter PHRA).
4. The Respondent is an employer within the meaning of the PHRA.
5. Section 5(a) of the PHRA makes it an unlawful discriminatory practice
“for any employer because of... a non-job related handicap or disability... to refuse to hire or employ or contract with, or to bar or to discharge from employment such individual or independent contractor, or to otherwise discriminate against such individual or independent contractor, with respect to compensation, hire, tenure, terms, conditions or privileges of employment or contract, if the individual or independent contractor is best able and most competent to perform the services required.”
6. Section 4(p) of the PHRA 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....
7. Pennsylvania courts generally interpret the PHRA "as identical to federal anti-discrimination laws except where there is something specifically different in its language requiring that it be treated differently.”
8. The PHRA and Americans With Disabilities Act (ADA) are interpreted in a coextensive manner. This practice occurs because the PHRA and ADA deal with similar subject matter and are grounded on similar legislative goals.

9. To establish a prima facie case of disability discrimination under section 5(a) Giberson must show that:
 - a. She is a person with a disability
 - b. She is otherwise qualified to perform the essential functions of the job with or without a reasonable accommodation.
 - c. She suffered an adverse action because of her disability;
10. To the extent that an employer challenges a plaintiff's claim that he/she can perform a job's essential functions, it has a burden to produce evidence of those essential functions.
11. Respondent failed to produce evidence of the essential functions of Giberson's position.
12. Giberson has established a prima facie case of discrimination in violation of Section 5(a) of the PHRA.
13. To successfully defend a violation of PHRA Section 5(a), Respondent must show a legitimate, non-discriminatory reason for its actions.
14. Respondent has failed to show a legitimate, non-discriminatory reason for its actions.
15. Complainant is entitled to damages.
16. The PHRC has broad discretion in fashioning a remedy.
17. In an employment discrimination case, the PHRC may award affirmative action, including, but not limited to, reimbursement of certifiable travel expenses, compensation for loss of work, hiring, reinstatement, and verifiable out-of-pocket expenses.
18. The Commission may also order a Respondent to cease and desist from discriminatory practices and to take affirmative action as, in the judgment of the Commission, will effectuate the purposes of the PHRA.

19. This purpose is not only to restore the injured party to her pre-injury status and make her whole, but also to discourage future discrimination.
20. Any uncertainty in an estimation of damages must be borne by the wrongdoer, rather than the victim since the wrongdoer caused the damages.
21. Back pay may include anticipated pay increases based upon satisfactory performance.
22. An employer who has discriminated need not reimburse the plaintiff for salary loss attributable to the plaintiff and unrelated to the employment discrimination.

OPINION

This case arises out of a dual filed Complaint by Kathleen Giberson (hereinafter Giberson or Complainant) against Arnold's Furniture Company Inc. (hereinafter Arnold's or Respondent). Complainant's PHRC Complaint was filed at PHRC Case Number 201702696. Complainant's Complaint alleged that Respondent discriminated against her on the basis of her disability, anxiety and major depressive disorder, when it terminated her on her second day of employment.

PHRC staff investigated the Complaint and found probable cause to credit Complainant's allegations of discrimination. The PHRC and the parties attempted to resolve the case through conference, conciliation, and persuasion but were unsuccessful. All parties waived their right to an in-person hearing and a virtual public hearing was held on August 20, 2024 before Hearing Examiner Darlene Martin. Complainant was represented by Kimberly Ashbach, Esquire. Respondent was represented by Nancy Abrams, Esquire. Robert Taylor, Esquire, represented the Commonwealth's interest in the case. The parties submitted post-hearing briefs in October 2024.

Complainant alleged discrimination based upon her disability. Section 5(a) of the PHRA provides in pertinent part:

It shall be an unlawful discriminatory practice...for any employer because of ... a non-job related handicap or disability... to refuse to hire or employ or contract with, or to bar or to discharge from employment such individual or independent contractor, or to otherwise discriminate against such individual or independent contractor with respect to compensation, hire, tenure, terms, conditions or privileges of employment or contract, if the individual or independent contractor is the best able and most competent to perform the services required.

Section 4(p) of the PHRA 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....

Pennsylvania courts generally interpret the PHRA "as identical to federal anti-discrimination laws except where there is something specifically different in its language requiring that it be treated differently." *Fair Hous. Rights Ctr. v. Morgan Props. Mgmt. Co., LLC*, No. 16-4677, 2017 U.S. Dist. LEXIS 55249, at *8 n.2 (E.D. Pa. Apr. 11, 2017). The PHRA and Americans With Disabilities Act (ADA) are interpreted in a coextensive manner. This practice occurs because the PHRA and ADA deal with similar subject matter and are grounded on similar legislative goals. *Kelly v. Drexel University* 907 F.Supp. 864, 874 (E.D.Pa.1995).

To establish a prima facie case of disability discrimination under section 5(a), Giberson must show that: She is a person with a disability, she is otherwise qualified to perform the essential functions of the job with or without a reasonable accommodation and she suffered an adverse action because of her disability.

Pursuant to the PHRA, 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 persons 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.1

In this case, it is undisputed that Ms. Giberson is a person with a disability under the PHRA. The parties stipulated that Giberson suffers from a chronic major depressive disorder and anxiety since 1989. J.S. ¶3. Giberson testified that she has wild racing thoughts, ruminations, inability at times to think, concentrate, sleep, and perform some of her major life activities. Tr 63-4. In its post-hearing brief, Respondent wrote that it "does not contest that Ms. Giberson

suffers from a “handicap” as defined by the PHRA or a “disability” as defined by the ADA.” footnote 8. For these reasons, the first element is satisfied.

The next element is whether Giberson was otherwise qualified to perform the essential functions of the job. This prong of the prima facie showing is a two-step inquiry: first whether Giberson satisfies the skill, experience, education and other job-related requirements of the job; second, whether Giberson can perform the essential functions of the job with or without reasonable accommodation. *Genell v. Fleetwood Bank*, 2024 PA Super 237 (Oct. 15, 2024). Here, the record shows that Giberson was hired after interviewing with both LePine and Berkowitz. Tr. 40, 44. Berkowitz testified that during the interview, Giberson appeared competent and had the qualities Respondent needed. Tr.180. Based on this evidence, the Commission finds that Giberson had the requisite skill, education and other job-related requirements of the job.

Next, we consider whether Giberson could perform the essential functions. Under the ADA, consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job. 42 U.S.C.A. § 12111(8). The statute makes clear that a Respondent does not have to create a job description to avoid liability.

While the ADA, requires courts to consider the employer’s judgment as to what functions are essential, the Respondent did not identify which functions were essential. When asked at the hearing what it was anticipated that Giberson would do, LePine testified, “we were still trying to figure that out exactly.” Tr. 214. The Commission could find no case law from the Third Circuit regarding the impact of the employer failing to put forth evidence regarding what the

essential functions are. However, at least two other Circuits have held that “an employer who disputes the plaintiff’s claim that he can perform the essential functions must put forth evidence establishing those functions.” See *Bates v. United Parcel Serv., Inc.*, 511 F.3d 974, 991 (9th Cir. 2007) quoting *E.E.O.C. v. Wal-Mart Stores, Inc.*, 477 F.3d 561, 568 (8th Cir. 2007). In *Bates*, the Court explained, [t]he genesis of this rule is the recognition that much of the information which determines those essential functions lies uniquely with the employer.” *Id.* Courts treat this burden as one of production. The burden of persuading the fact-finder that the employee can perform the essential functions of the job remains with the employee. While the Commission is not bound by these cases, the Commission finds the reasoning sound and adopts it. Therefore, Respondent failed to meet its burden of production because it failed to produce evidence of the essential functions. The Commission will now analyze the evidence that was presented at hearing regarding what transpired on Giberson’s first day of work.

Giberson argued that she performed all the tasks requested of her while Respondent argued that Giberson was impaired. Berkowitz testified that “Complainant was somehow impaired, not able to work that day, she didn’t do- couldn’t do anything.” Tr. 171. The Commission finds Giberson’s testimony more credible on this issue. Giberson testified that she read brochures. Tr. 80. Additionally, she walked around the showroom. Tr. 76. She also “saw two guys in the back of the store put a panel on upside down.” Tr. 77. Regarding the upside panel, LePine testified that “she told me about this demo cube and she noticed that a panel was off or something like that. And I gave her credit for that because it did seem like that was the case.” Tr. 259. Based on this evidence, the Commission finds element two is satisfied.

Element 3 is whether Complainant suffered an adverse action because of her disability. Giberson argued that she suffered an adverse action when she was fired because of her disability.

Respondent disputed that it fired her. LePine testified that Respondent “offered her a pause for 60-90 days and asked her to call back in two weeks to check in and see how things were going.” Tr. 266. Once again, the Commission finds Giberson’s testimony on this issue more credible. The evidence shows that Giberson told LePine via text message about her anxiety prior to starting work with Respondent. J.S. ¶3. LePine admitted that “little red flags” went up when he received this message. Tr. 256. LePine also testified that when he communicated with Giberson near the end of her work shift on the first day it made him feel “a little depressed being – in communicating with her.” Tr. 262. LePine further testified he worried how Giberson’s affect would impact other people’s mood and their productivity and at that time, [Respondent] could not afford that kind of thing to happen. *Id.* LePine testified that he didn’t want that [attitude around the office] for himself or for all the other people, especially since he had so many people coming up to him sharing the same sentiment. Tr. 264.

Giberson credibly testified that approximately one hour into her second day of work LePine brought her to the Human Resource office, and she was let go. Tr. 86-7. LePine testified that Respondent “offered her a pause for 60-90 days and asked her to call back in two weeks to check in and see how things were going.” Tr. 264. However, he admitted that he did not follow up to see how things were going or when she would be coming back or to request medical documentation. Tr. 267. LePine also testified, “We figure the first day, let's just stop it before it starts - before it gets really bad and kind of cut our losses at this point.” Tr. 238. He also admitted that during the conversation with human resources it was suggested that Giberson could get a part time job. *Id.* Based on this evidence, the Commission finds that Giberson was fired. Thus, the third element is satisfied.

Since Giberson established all three elements of the prima facie case, Respondent must

produce a legitimate non-discriminatory reason for Giberson's discharge. The Respondent argued that the reason it fired Giberson was because she was "somehow impaired, not able to work that day, she didn't do- couldn't do anything." Tr. 171. As discussed above, the Commission is unpersuaded by this testimony. Thus, Respondent failed to establish a legitimate non-discriminatory reason for the termination. Therefore, Giberson is entitled to damages.

Section 9(f)(1) of the PHRA provides in pertinent part:

If, upon all the evidence at the hearing, the Commission shall find that a respondent has engaged in or is engaging in any unlawful discriminatory practice as defined in this Act, the Commission shall state its finding of fact, and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful discriminatory practice and to take such affirmative action, including, but not limited to reimbursement of certifiable travel expenses in matters involving the complaint,... and any other verifiable, reasonable out-of-pocket expenses caused by such unlawful discriminatory practice, provided that, in those cases alleging a violation of Section 5(h)... the Commission may award actual damages, including damages caused by humiliation and embarrassment, as, in the judgment of the Commission, will effectuate the purposes of this act, and including a requirement for report of the manner of compliance.

The Commission is given wide discretion in fashioning remedies where unlawful discrimination has been proven. *PHRC v. Alto-Reste Park Cemetery Association*, 306 A.2d 881 (1973). The purpose of the remedy is not only to restore the injured party to her pre-injury status and make her whole but also to discourage future discrimination. *Williamsburg County School District v. Pa. Human Relations Comm'n*, 512 A.2d 1339 (Pa. Comwlth 1986). Any uncertainty in an estimation of damages must be borne by the wrongdoer, rather than the victim since the wrongdoer caused the damages. See *Green v. USX Corp.*, 46 FEP Cases 720 (3rd Cir. 1988).

The first aspect to consider regarding making Giberson whole is whether she is entitled to back pay. A party who prevails on a discrimination claim is entitled to back pay unless there are reasons which, if applied generally, would not frustrate the central statutory purposes of

eradicating discrimination throughout the economy and making persons whole for injuries suffered through past discrimination. *Albemarle Paper Co. v. Moody*, 422 U.S. 405, 421 (1975). However, courts have found that an employer who has discriminated need not reimburse the plaintiff for salary loss attributable to the plaintiff and unrelated to the employment discrimination. See *Mason v. Association for Independent Growth*, 817 F. Supp. 550 (E.D. Pa.1993) and *American Mfg. Co.*, 167 N.L.R.B. 520, 522 (1967). Here the Commission finds that Giberson is entitled to back pay from December 19, 2017 until July 17, 2018 because the evidence shows that on that date Complainant began receiving care at Belmont Psychological Associates for anxiety and depression because she did not believe she was receiving proper treatment and help at Central Behavioral Health. J.S. ¶25. Complainant stated, “My medications are all wrong and I am not functioning.” *Id.*

In this case, Complainant would have earned \$60,000.00 annually with the opportunity for a 5 percent increase in salary after 90 days. J.S. ¶10. Back pay may include anticipated pay increases based upon satisfactory performance. *Taylor v. Cent. Pennsylvania Drug & Alcohol Servs. Corp.*, 890 F. Supp. 360, 371 (M.D. Pa. 1995). Given this information, the following calculation reflects what Complainant’s approximate weekly earnings would have been if she had remained employed with Respondent until July 17, 2018.

December 19, 2017, through July 17, 2018 = approximately 30 weeks

\$60,000.00 annually /52 weeks = \$1,153.85 per week for the first 12 weeks

\$63,000.00 annually/52 weeks = \$1,211.54 per week for the remaining 18 weeks

The amount Complainant lost in wages because she was illegally terminated on December 18, 2017, is calculated as follows:

\$1,153.85 x 12 weeks = \$13,846.20

$\$1,211.54 \times 18 \text{ weeks} = \$21,807.72$

Total Wages Lost \$35,653.92

Complainant is entitled to back pay, less the amount earned in subsequent employment and reinstatement or future wage loss payments. It is the Respondent's burden to establish that the Complainant failed to mitigate her damages in order to limit Complainant's entitlement to an award. *Raya & Haig Hair Salon v. Pa. Human Rels. Comm'n*, 915 A.2d 728, 735 (Pa Cmwlth 2007). To establish a failure to mitigate an employer must show that: (1) substantially equivalent work was available, and (2) the claimant did not exercise reasonable diligence to obtain employment. *Booker v. Taylor Milk Co.*, 64 F.3d 860, 864.

In the instant case, Respondent failed to establish that Giberson did not exercise reasonable diligence to obtain subsequent employment. Giberson testified credibly that she immediately started looking for another job and was putting out resumes all over the place. Tr. 96. Complainant also testified that she went to Career Link and took classes. Tr. 97. For these reasons the Commission finds that Complainant made reasonable effort to mitigate her damages.

Notwithstanding, Respondent is entitled to offset the back pay amount with earnings received after Complainant's discharge until July 18, 2018. The parties stipulated that Giberson began driving part-time for Uber in February 2018. J.S. ¶ 27. The parties stipulated to the amount of Complainant's income for 2017 and 2018. It was \$43,827.00 for 2017 and \$13,505.00 for 2018. J.S. ¶ 30. The following calculations illustrate the amount to be deducted as amounts Complainant earned in mitigation of her damages.

$\$43,827.00/52 = \842.83 per week in 2017. December 19-31, 2017 = 2 weeks

Total replacement income in 2017 is $\$842.83 \times 2 = \$1,685.66$

\$13,505.00/52 weeks = \$259.71 per week in 2018. January 1, 2018- July 18, 2018 = 28 weeks

Total replacement income in 2018 is $\$259.71 \times 28 = \$7,271.88$

Grand Total replacement income = $\$1,685.66 + \$7,271.88 = \$8,957.54$

Given these calculations, Complainant's back pay award becomes:

Unmitigated back pay = **\$35,653.92**

Minus replacement pay = **\$8,957.54**

Mitigated wage loss = **\$26,696.38**

The PHRC is also authorized to award interest on back pay awards. *Goetz v. Norristown Area School District*, 16 Pa. Cmwlth Ct. 389, 328 A.2d 579 (1975). Accordingly, interest shall also be ordered in this matter. Complainant's total award with 6% simple interest follows:

Lost back pay = \$26,696.38

plus 6% simple interest = \$1,601.78

TOTAL AWARD = **\$28,298.16**

An order follows.

**COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION**

Kathleen Giberson,	:	
Complainant	:	
v.	:	PHRC Case No. 201702696
	:	EEOC Charge No. 530-2018-01259
Arnold's Office Furniture Company Inc.	:	
Respondent	:	

RECOMMENDATION OF PERMANENT HEARING EXAMINER

Upon consideration of the entire record in the above-captioned matter, I find that Complainant Kathleen Giberson has proven that Respondent discriminated against her by terminating her employment because of her disability in violation of Section 5(a) of the PHRA. It is, therefore, my recommendation that the attached Findings of Fact, Conclusions of Law, and Opinion be approved and adopted. If so, approved and adopted, I further recommend issuance of the attached Final Order.

PENNSYLVANIA HUMAN RELATIONS COMMISSION

Darlene Martin

Darlene Martin, Permanent Hearing Examiner

**COMMONWEALTH OF PENNSYLVANIA
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PENNSYLVANIA HUMAN RELATIONS COMMISSION**

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Complainant	:	
v.	:	PHRC Case No. 201702696
	:	EEOC Charge No. 530-2018-01259
Arnold's Office Furniture Company Inc.	:	
Respondent	:	

FINAL ORDER

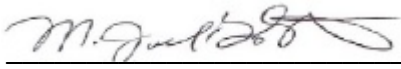
AND NOW, this 27th day of January, 2025, after a review of the entire record in this matter, the Pennsylvania Human Relations Commission, pursuant to Section 9 of the Pennsylvania Human Relations Act, hereby approves the foregoing Findings of Fact, Conclusions of Law, and Opinion of the Permanent Hearing Examiner. Further, the Commission adopts said Findings of Fact, Conclusions of Law, and Opinion into the permanent record of this proceeding, to be served on the parties to the Complaint and hereby

ORDERS

1. That Respondent, Arnold's Office Furniture Company Inc., shall cease and desist from discriminating against its employees with disabilities;
2. That Respondent shall pay Complainant Kathleen Giberson the lump sum of \$28,298.16 which amount represents mitigated backpay and interest of 6% following Complainant's termination;
3. That, within thirty (30) days of the effective date of this Order, Respondent shall report to the PHRC on the manner of its compliance with the terms of this Order by letter


addressed to Adrian Garcia, Director of Enforcement, Pennsylvania Human Relations
Commission, 333 Market St. 8th Fl. Harrisburg, PA 17101.

PENNSYLVANIA HUMAN RELATIONS COMMISSION

BY: 

M. Joel Bolstein
Chairperson

Attest:


_____ O/B/O Commissioner Mayur Patel