

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

River Robbins,	:	
Complainant	:	
v.	:	PHRC Case No. 202200982
	:	EEOC Charge No. 17F202360114
Pennsylvania Public Utility Commission,	:	
Respondent	:	

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RECOMMENDATION OF PERMANENT HEARING EXAMINER

FINAL ORDER

STATEMENT OF THE CASE

DARLENE MARTIN, PERMANENT HEARING EXAMINER. A public hearing was held in this matter on October 16 and 17, 2024 in Dauphin County. Complainant River Robbins (hereinafter Robbins or Complainant) participated virtually as a reasonable accommodation. Robbins dual filed a Complaint on or about November 1, 2022 in PHRC Case No. 202200982 against the Pennsylvania Public Utility Commission (hereinafter PUC or Respondent). The Complaint alleged that Respondent discriminated against Robbins on the basis of her disabilities in two ways: First by failing to provide a reasonable accommodation of full time telework and second by constructively discharging her. Respondent filed a timely Answer denying the allegations set forth in the Complaint. Complainant was represented by Stacy McNaney, Esquire, Kierstyn Marcucci, Esquire, and Morgan Williams, Esquire. Respondent was represented by Michael McAuliffe Miller, Esquire, Renee Mattei Montgomery, Esquire, and Theresa Davis, Esquire.

FINDINGS OF FACT¹

1. Complainant is River Robbins (hereinafter Robbins or Complainant).
2. Respondent is Pennsylvania Public Utility Commission (hereinafter PUC or Respondent).
3. Robbins has multiple mental health conditions including anxiety and post-traumatic stress disorder. Tr. 35.
4. Robbins was diagnosed with Anxiety in or about middle school. *Id.*
5. Complainant experiences panic attacks. The anxiety makes it “hard to think, impossible to concentrate.” Tr. 37.
6. Robbins experiences some level of anxiety “every single day.” *Id.*
7. Complainant experiences panic fairly frequently when she has to leave her home or do something social. *Id.*
8. Being out in large environments or loud noises make the symptoms worse. Tr. 38.
9. Robbins prepares for going out in public by journaling and meditating prior to leaving her home. *Id.*
10. While in public, she uses sensory supports like wearing sunglasses, a hat and ear buds. *Id.*
11. Complainant tries to limit the amount of time she spends out. *Id.*
12. If Complainant is out for four hours, it will take her days to regulate herself. *Id.*
13. Robbins was diagnosed with ADHD in college. Tr. 38.
14. The ADHD impacts her ability to focus and her working memory. *Id.*

¹ Abbreviations

Tr.= Hearing Transcript

C.E.= Complainant Exhibit

R.E.= Respondent Exhibit

J.E = Joint Exhibits

15. On July 15, 2019, Complainant began working for Respondent as a Clerk Typist 2. J.E. 1 ¶9.

16. Robbins initially worked in-person five days per week. Tr. 45

17. While working in-person, Complainant testified that she had “near constant anxiety” and “frequent meltdowns.” *Id.*

18. Robbins also had difficulty sleeping and had anorexia. Tr. 45-6.

19. Robbins requested and got permission to bring a yoga mat to the office and do yoga on her breaks. Tr. 46.

20. On March 16, 2020, Respondent directed its employees, including Complainant, to begin working remotely from their residences due to the COVID-19 pandemic. J.E. 1 ¶10.

21. Respondent got employees connectivity where they could log in with their home computers and then bought laptop computers for employees. Tr. 349.

22. Robbins testified that once she began working from home, “her mental and physical symptoms got significantly better.” Tr. 47.

23. Robbins testified that she started eating regularly and without difficulty and was able to sleep and that she had much less anxiety. *Id.*

24. On May 17, 2021, Respondent promoted Complainant to a Compliance Specialist 1 position. J.E. 1 ¶11.

25. Tatjana Roth (hereinafter Roth) was Complainant’s supervisor from May 2021 until Robbins left the PUC. Tr. 177.

26. Prior to being a supervisor, Roth had numerous other positions at the PUC including Compliance Specialist I. Tr. 176.

27. Complainant’s job description was divided into three headings: “On Applications” “On

Insurance Filings” and “Other Duties.” C.E. 11.²

28. One of the tasks under the “On Applications” heading was “attend hearing as a witness or observer.” *Id.*

29. Roth admitted that she had never assigned Robbins or any other Compliance Specialist I that task. Tr. 184.

30. Roth also admitted that for the year 2024, this task had not been assigned. *Id.*

31. Roth admitted that no task under the “On Insurance Filings” heading required Complainant to be in the office to complete it. Tr. 185.

32. One of the tasks under the “Other Duties” heading was “attend legislative or committee meetings.” C.E. 11.

33. Roth admitted that she never assigned Robbins or any other Compliance Specialist I this task. Tr.186.

34. Roth also admitted that for the year 2024, this task had not been assigned. *Id.*

35. Roth admitted that her team was fully operational even if some members were teleworking and other members were in the office. Tr. 186.

36. Roth admitted that Robbins was able to do everything on the Essential Functions Statement from home. Tr. 188.

37. Roth did not draft the Essential Functions Statement. *Id.*

38. Roth testified that she never had to assign other employees to assist Robbins because she wasn’t in the office. Tr. 199.

39. Roth completed two performance reviews for Robbins and gave her ratings of “satisfactory” and “commendable” on each. C.E. 22, C.E 23

² Complainant’s legal name in May 2021 was Kelsey Robbins.

40. In April of 2022, Robbins was diagnosed with Autism. Tr. 38.

41. Robbins testified, "Primarily, for me, [Autism] includes a lot of sensory differences, which have been measured significantly outside the norm. Everything with lights, smells, sounds are amplified for me by several fold." Tr. 41.

42. Robbins and her wife do not cook with certain foods and don't have certain foods in the home because smells can be challenging. Tr. 49.

43. Complainant and her wife only use certain cleaning products, so the smells are not unpleasant to her. *Id.*

44. Robbins does not have fluorescent lights in her home and all lights she does have are "pretty dim." *Id.*

45. On August 2, 2022, after learning that she may be required to return to the office, Robbins e-mailed Human Resources to request teleworking as a disability accommodation. Tr. 51. C.E. 13.

46. Robbins received an e-mail response with the required paperwork attached but stating that outreach to her medical provider regarding her request would be premature as no changes had yet been made regarding telework. C.E. 13.

47. Robert Gramola, (hereinafter Gramola) was the Director of Administration for Respondent. Tr. 310.

48. Gramola helped develop the Respondent's return to office plan or Reconstitution Plan. Tr. 312.

49. Respondent's Reconstitution Plan read as follows:

As the Commission is a governmental agency, and its employees are public servants, there is a need to have all our offices open and operating to serve the citizens of Pennsylvania. A "core" presence of staff in the offices will ensure that the public is served and provided what is needed from the Commission.... In

summary, the updated hybrid model has a “core” number of staff in the offices each business day with staff working a minimum of 2 days per week in the office on a rotating basis. R.E. 19 at 160-61.

50. Respondent admitted that there could be a “core” presence as described in the Reconstitution Plan without Robbins in the office. Tr. 350-51.

51. There would have been somewhere between 150-200 employees in each day. Tr. 351.

52. On September 15, 2022, Respondent informed its employees, including Complainant, that they would be required to resume working in the office two or three days per week beginning on October 2, 2022. J.E. 1 ¶12.

53. On September 15, 2022, Robbins submitted an accommodation request for full time telework. C.E.13.

54. Respondent did not conduct an individualized assessment of Complainant’s job duties in comparison to the requested accommodation. Tr. 248-49.

55. Respondent sent an initial questionnaire to Robbins’ primary care provider, Alexis Henry, (hereinafter Henry) via fax on September 16, 2022. R.E. 9.

56. Henry spoke to Robbins to review the questions and get a better understanding of her working environment as related to her current diagnoses and symptomology. J.E. 3 at 36.

57. Henry completed the questionnaire and recommended that Robbins be allowed to telework full time as an accommodation. R.E. 9

58. Henry recommended full time telework because Robbins tends to have a lot of sensitivities to sounds, a lot of social anxieties in general and having her home environment tailored to her needs and sensitivities had really decreased her anxiety. J.E. 3 at 37.

59. Henry submitted the completed questionnaire to Respondent on or about September 27, 2022. R.E. 9.

60. After receiving the completed questionnaire, Respondent sent Henry a second questionnaire on September 30, 2022. R.E. 10.

61. The second questionnaire had detailed questions regarding possible accommodations to Respondent's office environment and whether those accommodations would allow Robbins to report to the office twice per week. R.E. 10.

62. Respondent asked about the following accommodations: sunglasses, noise cancelling headphones or ear buds, eliminating certain scents or smells and scheduled breaks. *Id.*

63. Henry completed the follow-up questionnaire and again recommended that Robbins be allowed to telework full time as an accommodation. *Id.*

64. Wearing sunglasses would have been ineffective as an accommodation because of the numerous sources of light including a "giant window," that let in natural light, overhead lighting, the elevators and bathrooms. Tr. 67-8.

65. Robbins testified that she cannot wear sunglasses for prolonged periods of time due to the pain it causes her ears. Tr. 64.

66. Noise cancelling headphones would have been ineffective because they don't cancel out all the noise, and wearing earbuds all day would cause Complainant a new kind of pain. Tr. 67.

67. There is no way to accommodate Robbins' sensitivity to smell in the office environment because the environment includes foods being microwaved or cooked in the cafeteria, perfumes used by other employees or visitors to the building, and cleaning products used throughout the building. Tr. 68.

68. Complainant testified that scheduled breaks would not have been effective because "she still heard everything and still smelled things." Tr. 69.

69. From May 17, 2021 through October 2, 2022, Complainant performed her duties as a Compliance Specialist I fully remotely, due to the COVID-19 pandemic. J.E. 1 ¶13.

70. Robbins was required to begin reporting to the office two days per week starting on October 2, 2022. J.E. 1 ¶12.

71. Robbins became physically ill each day that she was required to report to the office and called out sick on the days she was required to report to the office. Tr. 74.

72. Complainant submitted an FMLA request for intermittent absences beginning on October 3, 2022, using accrued sick leave and unpaid leave. R.E. 23.

73. Robbins did not request to use anticipated or unearned leave. Tr. 73.

74. On October 13, 2022, Respondent informed Robbins that her request for an accommodation to telework full time was denied on the basis that regular attendance at her assigned work location (Headquarters) is an essential function of her position. C.E. 16.

75. Robbins immediately submitted a Request for Reconsideration of the denial. C.E. 17.

76. Respondent admitted that it did not consider whether there were specific tasks that Complainant could not perform via telework when reviewing the request for reconsideration. Tr. 321.

77. On October 17, 2022, Respondent informed Robbins that her Request for Reconsideration was denied. C.E. 18.

78. On October 31, 2022, Robbins requested that she be allowed to telework full time for 90 days. C.E.19.

79. Gramola testified that the request was denied because “we don’t have a policy for full time permanent telework.” Tr. 333.

80. Gramola also testified that it was his understanding that a policy could not be modified

as an accommodation for a disability. *Id.*

81. On November 2, 2022, Respondent sent Robbins a letter informing her that it was placing her on continuous FMLA leave. R.E. 25.

82. The letter also read, “You will be permitted to return to work once your treating physician releases you to return to work to perform the essential functions of your position, which includes the ability to report in-person to your assigned worksite at the PUC headquarters.” *Id.*

83. Respondent admitted that while Robbins was on FMLA leave she was locked out of her work accounts. Tr. 299.

84. On January 12, 2023, Robbins resigned from her employment with Respondent. R.E. 27.

85. While employed with Respondent, Complainant worked 37.5 hours per week, earned \$24.79 per hour, and was paid biweekly. C.E. 34.

86. Robbins also received retirement benefits while working for Respondent. C.E. 36.

87. As of December 31, 2022, Ms. Robbins had 3.4773 years of credited service with the State Employees Retirement System, the total account balance on her Defined Contribution Plan was \$7,301.31 and the total account balance on her Deferred Compensation Plan was \$1,153.52. C.E. 36.

88. Robbins kept records of her job search and submitted 126 applications as of July 3, 2023, all for remote positions. C.E. 35, Tr. 103.

89. Robbins continued searching for employment after July 3, 2023, and never turned down a job offer. Tr. 103

90. In or around September 2023, Complainant began a part-time position as a content

manager for the Autistic Culture Podcast. Tr. 43-4.

91. At the Autistic Culture Podcast, Robbins worked 18.6 hours per week and earned \$25.00 per hour. Tr. 44.

92. Robbins was let go from her position at the Autistic Culture Podcast in October 2024. Tr. 43.

93. Robbins began a master's program in clinical counseling in the fall of 2024. *Id.*

CONCLUSIONS OF LAW

1. The Pennsylvania Human Relations Commission (hereinafter PHRC or Commission) 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) a person 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; and
 - c. She suffered an adverse action because of her disability.
10. A person is “otherwise qualified” if he/she:
 - a. satisfies the prerequisites for the position, such as possessing the appropriate educational background, employment experience, skills, licenses, etc.; and
 - b. can perform the essential functions of the position with or without reasonable accommodations.
11. 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.
12. Courts are split on how much deference to give an employer’s determination of which functions are essential.
13. Assessing whether a function is essential requires a broad, fact-intensive inquiry.
14. The ADA’s regulations provide additional guidance about the kinds of evidence that should be considered to determine whether a function is essential. The evidence includes but is not limited to:
 - a. The employer's judgment as to which functions are essential;
 - b. Written job descriptions prepared before advertising or interviewing applicants

for the job;

- c. The amount of time spent on the job performing the function;
 - d. The consequences of not requiring the incumbent to perform the function;
 - e. The terms of a collective bargaining agreement;
 - f. The work experience of past incumbents in the job; and/or
 - g. The current work experience of incumbents in similar jobs.
15. Discrimination includes not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability unless [the employer] can demonstrate that the accommodation would impose an undue hardship on the operation of the business.
16. Once an employee asks for a reasonable accommodation due to a disability, the employer has an obligation to initiate an interactive process with him or her aimed at determining the disabled employee's limitations and any possible way of accommodating them.
17. It is within this interactive process that a court must isolate the cause of the breakdown and then assign responsibility.
18. Respondent was responsible for the breakdown in the interactive process.
19. Full time telework was the only accommodation that would effectively accommodate all of Complainant's disabilities.
20. Robbins has established a prima facie case of disability discrimination.
21. To successfully defend a discrimination claim based on the failure to provide a reasonable accommodation, Respondent must show that the requested accommodation would create an undue hardship.

22. Undue hardship means significant difficulty or expense incurred by a covered entity, when considering certain factors.
23. The factors include:
- a. The nature and net cost of the accommodation, taking into consideration the availability of tax credits and deductions, and/or outside funding;
 - b. The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, and the effect on expenses and resources;
 - c. The overall financial resources of the covered entity, the overall size of the business of the covered entity with respect to the number of its employees, and the number, type and location of its facilities;
 - d. The type of operation or operations of the covered entity, including the composition, structure and functions of the workforce of such entity, and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the covered entity; and
 - e. The impact of the accommodation upon the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.
24. Respondent has failed to show that the requested accommodation would create an undue hardship.
25. Complainant is entitled to damages on her reasonable accommodation claim.

26. For constructive discharge claims, The Third Circuit employs an objective test that analyzes whether the employer permitted conditions so unpleasant or difficult that a reasonable person would have felt compelled to resign.
27. Courts in the Third Circuit have recognized that the failure to accommodate an employee's disability can give rise to an inference of constructive discharge.
28. To determine when an employer's failure to accommodate rises to the level of establishing a prima facie case of constructive discharge courts generally look at whether the employee repeatedly requested the accommodation, that request was denied, and no reasonable alternative was offered.
29. Complainant established a prima facie case for constructive discharge.
30. Respondent provided a legitimate non-discriminatory reason for its action.
31. Since Respondent provided a legitimate non-discriminatory reason for its action, the burden shifted back to Robbins to show that Respondent's reason was pretext for discrimination.
32. To show that Respondent's reason is pretext, Robbins must demonstrate such weaknesses, implausibilities, inconsistencies, incoherencies or contradictions in [] proffered reason for [] actions that a reasonable factfinder could find it unworthy of credence.
33. Robbins showed that Respondent's reason was pretext for discrimination.
34. Complainant is entitled to damages on her constructive discharge claim.
35. The PHRC has broad discretion in fashioning a remedy.

36. 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.
37. 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.
38. 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.
39. The Third Circuit has held that front pay is an alternative to the traditional equitable remedy of reinstatement, which would be inappropriate where there is a likelihood of continuing disharmony between the parties or unavailable because no comparable position exists.
40. The Commission has discretion in setting the cutoff date of the equitable front pay remedy subject to the limitation that front pay only be awarded for a reasonable future period required for the employment discrimination victim to reestablish her rightful place in the job market.
41. The question of mitigation of damages lies within the sound discretion of the Commission.
42. It is the Respondent's burden to establish that the Complainant failed to mitigate her damages in order to limit a Complainant's entitlement to an award.

OPINION

This case arises out of a dual filed Complaint by River Robbins (hereinafter Robbins or Complainant) against The Pennsylvania Public Utility Commission (hereinafter PUC or Respondent). Complainant's PHRC Complaint was filed on or about November 1, 2022, at PHRC Case Number 202200982. Complainant's Complaint alleged that Respondent discriminated against her on the basis of her disabilities when it failed to provide her a reasonable accommodation of full time telework and that Respondent constructively discharged her.

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. A public hearing was held on October 16-17, 2024, in Dauphin County before Hearing Examiner Darlene Martin. Complainant participated virtually as a reasonable accommodation and was represented by Stacy McNaney Esquire, Keirstyn Marcucci Esquire and Morgan Williams Esquire. Respondent was represented by Michael Miller Esquire, Renee Mattei Montgomery Esquire and Theresa Davis Esquire. The parties submitted post-hearing briefs in 2025.

Complainant alleged discrimination based upon her disabilities. 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....

The PHRA provisions are supplemented by applicable regulations promulgated by the PHRC at 16 Pa. Code §44.4 which provide:

Handicapped or disabled person - Includes the following:

- (i) A person who has or is one of the following:
 - (A) A physical or mental impairment, which substantially limits one or more major life activities.
 - (B) A record of such impairment.
 - (C) 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 psychological disorder, such as mental illness, and specific learning disabilities.
 - (B) “major life activities” means functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
 - (C) “has a record of such 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.

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), Robbins 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.

The evidence establishes that Robbins is a person with a disability under the PHRA. Robbins testified that she has been diagnosed with multiple impairments including Anxiety, ADHD and Autism. Robbins also testified about how these conditions substantially limit major life activities. For example, the ADHD impacts her ability to focus and her working memory. Tr. 40. Robbins testified, "Autism is a neurological condition. Primarily, for me, [Autism] includes a lot of sensory differences, which have been measured significantly outside the norm. Everything with lights, smells, sounds are amplified for me by several fold." Tr. 41. Robbins must prepare herself to go out in public by journaling or meditating before leaving the house and use sensory supports like wearing sunglasses, a hat and ear buds in public. Tr. 38. Complainant also testified

that the Anxiety makes it “hard to think, impossible to concentrate” and that she experiences some level of anxiety “every single day.” Tr. 37. Based upon this evidence, the Commission finds that Robbins has a disability under the PHRA. Therefore, element one is satisfied.

The next element is whether Robbins 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 Robbins satisfies the skill, experience, education and other job-related requirements; second, whether Robbins can perform the essential functions of the job with or without a reasonable accommodation. *Genell v. Fleetwood Bank*, 2024 PA Super 237 (Oct. 15, 2024).

It is undisputed that Robbins had the skill and experience to perform the job. Robbins was hired in 2019 and promoted in 2021. Complainant’s supervisor completed two performance reviews and gave her ratings of “satisfactory” and “commendable” on each. C.E. 22, C.E 23. Thus, the first prong is satisfied.

Next, we consider whether Robbins could perform the essential functions of the job with or without a reasonable accommodation. The parties disagree whether reporting to the office twice per week is an essential function of the job. The parties also disagree whether full time telework is a reasonable accommodation. The Commission will first analyze whether reporting to the office twice per week was an essential function of the job.

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).

Respondent argues that considerable deference must be given to an employer’s judgment regarding what functions are essential. However, this Commission noted that

“courts are split on how much deference to give an employer’s determination of which functions are essential. *Harrison v. Lazer Spot Inc*, PHRC Case No. 201300300 (vacated in part on other grounds).

“Indeed, by giving too much deference to what an employer deems are essential functions would allow employers to create a screening mechanism that circumvent the very purpose of civil rights statutes which is to prohibit employers from requiring disabled employees to perform certain tasks that a full analysis would reveal are nonessential.” *Harrison* at 44.

This Commission further stated that “Assessing whether a function is essential requires a broad, fact-intensive inquiry to make a proper determination of whether a function is essential.” *Id* at 45. We now turn to the facts in this case.

Robert Gramola, (hereinafter Gramola) Respondent’s Director of Administration, testified, “the Commissioners made it clear that they wanted to get the offices open and bring people back in.” Tr. 313. Gramola further testified that “other agencies started to return. And then our Commissioner[s] said it's time for the Commission to be back in the office, open our doors for the citizens that need our services.” *Id*. Gramola helped develop the Respondent’s return to office plan.³ *Id*. Respondent’s Reconstitution Plan read as follows:

As the Commission is a governmental agency, and its employees are public servants, there is a need to have all our offices open and operating to serve the citizens of Pennsylvania. A "core" presence of staff in the offices will ensure that the public is served and provided what is needed from the Commission.... In summary, the updated hybrid model has a “core” number of staff in the offices each business day with staff working a minimum of 2 days per week in the office on a rotating basis. R.E. 19 at 160-61.

While the Reconstitution Plan shows Respondent’s preference for having employees return to the office at least two days per week, Gramola admitted that there could be a “core” presence as

³ The official title of the Respondent’s Return to Office Plan was Reconstitution Plan.

described in the Reconstitution Plan without Robbins in the office. Tr. 350-51. Gramola testified that there would have been somewhere between 150-200 employees in each day. Tr. 351.

Next, we will consider the job description. Under the ADA, 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. Here the Respondent did prepare a job description. C.E.11. The job description was divided into three headings: “On Applications” “On Insurance Filings” and “Other Duties.” *Id.*

One of the tasks under the “On Applications” heading was “attend hearings as a witness or observer.” *Id.* However, Complainant’s supervisor, Tatjana Roth (hereinafter Roth), admitted that she had never assigned Robbins or any other Compliance Specialist I that task. Tr. 184. Roth also admitted that for the year 2024, this task had not been assigned. *Id.* Based on this testimony, the Commission finds that attending hearings was not an essential function of Complainant’s job. Roth admitted that no task under the “On Insurance Filings” heading required Robbins to be in the office to complete it. Tr. 185. One of the tasks under the “Other Duties” heading was “attend legislative or committee meetings.” C.E. 11. Roth admitted that she had never assigned Robbins or any other Compliance Specialist I that task. Tr. 184. Roth also admitted that for the year 2024, this task had not been assigned. *Id.* Based on this evidence, the Commission finds that attending legislative or committee meetings was not an essential function of Complainant’s job.

Respondent also prepared an “Essential Functions Statement” for Complainant’s position. C.E. 12. Roth admitted that Robbins was able to do everything on the “Essential Functions Statement” from home. Tr 188. Roth testified that she never had to assign other employees to assist Robbins because she wasn’t in the office. Tr. 199.

The ADA's regulations provide additional guidance on how to determine if a job function is essential. The regulations provide several reasons why a job function may be considered essential including a particular function being the basis of the job or if the job function requires highly specialized skills that only few people can perform. 29 C.F.R. 1630.2(n)(2). There is no evidence in the record that shows that reporting to the office is the basis for Complainant's job or that the job required highly specialized skills. The regulations also include the type of evidence to consider in determining whether a function is essential. 29 C.F.R. §1630.2(n)(3). The evidence includes but is not limited to:

- a. The employer's judgment as to which functions are essential;
- b. Written job descriptions prepared before advertising or interviewing applicants for the job;
- c. The amount of time spent on the job performing the function
- d. The consequences of not requiring the incumbent to perform the function;
- e. The terms of a collective bargaining agreement;
- f. The work experience of past incumbents in the job; and/or
- g. The current work experience of incumbents in similar jobs.

Since the first two factors are discussed above, the Commission will not analyze them here. The third factor is how much time the employee spends doing the essential function. The record shows that Robbins performed her job entirely in-person prior to the Covid 19 pandemic. Then entirely remote from March 2020 until October 2, 2022. Under the Reconstitution Plan, Complainant was required to go to the office two days per week. Since Complainant had performed her job satisfactorily both in person and remotely, the Commission did not give this factor any weight.

Factor four is the consequences of not requiring Robbins to report to the office. It is undisputed that Robbins received satisfactory performance reviews while working from home. C.E. 22 and 23. Additionally, Roth admitted that her team was fully operational when some employees were teleworking while others were in the office. Tr.186. When Gramola was asked what impact it would have if Robbins worked remotely full time, he responded, “I don’t know if it would have had any impact financially.” Tr 334. Based on this evidence, the Commission finds that factor four weighs against reporting to the office being an essential function of Complainant’s job.

There is no evidence in the record of a collective bargaining agreement, so the Commission did not consider this factor. The final factors are the experience of past incumbents in the job and/or the current work experience of incumbents in similar jobs. Based on the record, the Commission finds that Roth was the only witness who has a similar role because she was previously a Compliance Specialist and currently supervises Compliance Specialists. When Roth was asked her opinion on whether she believed that physical presence in the office is an essential function of being a Compliance Specialist, Roth testified, “As a supervisor in 2024, I believe it is not.” Tr. 190. It is undisputed that prior to the Covid 19 pandemic, Compliance Specialists reported to the office five days per week. However, when the pandemic hit, Respondent got employees connectivity where they could log in with their home computers and then bought laptop computers for employees. Tr 349. Gramola testified that now every employee has their own laptop. *Id.* Because Respondent now provides every employee with a laptop and an incumbent of the position who currently supervises Compliance Specialists believes being in the office is not an essential function of the job, the Commission finds that this factor weighs in favor of reporting to the office not being an essential function of the job. Considering all the

evidence, the Commission finds that reporting to the office two days per week was not an essential function of Complainant's job. Since that was the only essential function that Respondent disputed Complainant could perform, we find that Robbins has satisfied her burden regarding the second element of the prima facie case.

The third element of the prima facie case is whether Complainant suffered an adverse action. The Third Circuit Court of Appeals has held that an adverse action includes failing to make reasonable accommodations for a person's disability. See *Williams v. Philadelphia Hous. Auth. Police Dep't*, 380 F.3d 751, 761 (3d Cir. 2004)(superseded on other grounds). Here Robbins submitted an accommodation request for full time telework on September 15, 2022. C.E. 13.

Once an employee asks for a reasonable accommodation due to a disability, the employer has an obligation to initiate an interactive process with him or her aimed at determining the disabled employee's limitations and any possible way of accommodating them. *Canteen Corp. v. Pennsylvania Hum. Rels. Comm'n*, 814 A.2d 805, 812 (Pa. Commw. Ct. 2003). It is within this interactive process that a court must isolate the cause of the breakdown and then assign responsibility. *Id* at 813. The parties disagree about what caused the breakdown in the interactive process. Complainant argues that Respondent failed to conduct an individualized assessment of her job duties in comparison to her accommodation request. Respondent argues it is not responsible for the failure of the interactive process because the Complainant is not entitled to a specific accommodation.

The Appendix to the ADA regulations provides additional guidance regarding the steps of the interactive process.⁴ When the employer receives a request for reasonable accommodation,

⁴ The Appendix can be accessed at <https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XIV/part-1630/appendix-Appendix%20to%20Part%201630>.

the first step the employer should take is to “analyze the particular job involved and determine its purpose and essential functions.” The Appendix also reads:

This process requires the individual assessment of both the particular job at issue, and the specific physical or mental limitations of the particular individual in need of reasonable accommodation. With regard to assessment of the job, “individual assessment” means analyzing the actual job duties and determining the true purpose or object of the job. Such an assessment is necessary to ascertain which job functions are the essential functions that an accommodation must enable an individual with a disability to perform. Appendix to part 1630, 1630.9 Not Making Reasonable Accommodations.

Respondent admitted that it did not conduct an individual assessment of Complainant’s job duties in comparison to the requested accommodation Tr. 248-49. As discussed above, there were several duties listed on the job description that were not essential. Regarding Respondent’s argument, the Commission agrees that a Complainant is not entitled to a specific accommodation if there are multiple accommodations that will effectively accommodate a Complainant’s disability. In this case however, the evidence establishes that full time telework was the only accommodation that would effectively accommodate all of Robbins disabilities. The second questionnaire had detailed questions regarding possible accommodations to Respondent’s office environment and whether those accommodations would allow Robbins to report to the office twice per week. R.E. 10. Respondent asked about the following accommodations: sunglasses, noise cancelling headphones or ear buds, eliminating certain scents or smells and scheduled breaks. *Id.* The evidence establishes that none of these accommodations would have been effective. Robbins credibly testified that wearing sunglasses would have been ineffective as an accommodation because of the numerous sources of light including a “giant window,” that let in natural light, overhead lighting, the elevators and bathrooms. Tr. 67-8. Complainant also testified that she cannot wear sunglasses for prolonged periods of time due to the pain it causes her ears. Tr. 64. Additionally, noise cancelling headphones would have been ineffective because they don’t

cancel out all the noise, and wearing earbuds all day would cause Complainant a new kind of pain. Tr. 67. There is no way to accommodate Robbins' sensitivity to smell in the office environment because the environment includes foods being microwaved or cooked in the cafeteria, perfumes used by other employees or visitors to the building, and cleaning products used throughout the building. Tr. 68. Complainant testified that scheduled breaks would not have been effective because "she still heard everything and still smelled things." Tr. 69. Complainant's testimony on why other accommodations would have been insufficient is corroborated by Henry's answers to the second questionnaire. For these reasons, the Commission finds that Respondent was responsible for the breakdown of the interactive process.

Respondent denied Robbins request on October 13, 2022. The denial stated, "This memorandum serves as notification that your request to work from your alternate work location full time has been denied on the basis that regular attendance at your assigned (Headquarters) work location is an essential function of the position." C E.16. Robbins filed a request for reconsideration that same day. C.E.17. Gramola denied the request for reconsideration on October 17, 2022. C.E. 18. The evidence shows that Gramola did not conduct an individual assessment of Complainant's job when denying the request for reconsideration. When asked at the hearing whether there were specific parts of the Complainant's job that he felt could not be done via telework, Gramola testified, "that wasn't really part of the determination." Tr. 321.

While Respondent does not dispute that it denied Complainant's accommodation request to work from home full time, Respondent argues that the request was unreasonable. At hearing, Gramola testified, "her request was unreasonable because of the policy." Tr. 335. Gramola also testified, that it was his understanding that a policy cannot be modified as an accommodation to a disability. Tr. 334. This understanding is contrary to the ADA which

states that a reasonable accommodation may include adjustment or modification of examinations, training materials, or policies. 42 U.S.C.A. § 12111(9)(B). The Commission finds that Complainant's requested accommodation was reasonable. This finding is supported by both the law and the fact that Robbins satisfactorily performed her job entirely remotely from May 17, 2021 through October 2, 2022. Therefore, the Complainant has successfully established the third element of the prima facie case.

Since Complainant has established a prima facie case, the only way Respondent can avoid liability is by showing that the requested accommodation was an undue hardship. Undue hardship means significant difficulty or expense incurred by a covered entity, when considering certain factors. 42 U.S.C.A. § 12111(10). The factors are:

- A. The nature and net cost of the accommodation needed under this part, taking into consideration the availability of tax credits and deductions, and/or outside funding;
- B. The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, and the effect on expenses and resources;
- C. The overall financial resources of the covered entity, the overall size of the business of the covered entity with respect to the number of its employees, and the number, type and location of its facilities;
- D. The type of operation or operations of the covered entity, including the composition, structure and functions of the workforce of such entity, and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the covered entity; and
- E. The impact of the accommodation upon the operation of the facility, including the

impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.

Here, Respondent has failed to establish that allowing Robbins to work from home full time would have been an undue hardship. Gramola testified that there would be no financial impact. Tr. 334. The only evidence that Complainant's request might have been an undue hardship was Gramola's testimony that other employees may be dismayed about Robbins not having to adhere to the policy. Tr. 334-35. Pursuant to the ADA's regulations, "an undue hardship may not be based on the view that an accommodation might have a negative impact on the morale of co-workers." 29 C.F.R. §1630.15(d). Since Respondent failed to show that Complainant's requested accommodation would be an undue hardship, Complainant is entitled to damages on her reasonable accommodation claim.

The Commission will next analyze Complainant's constructive discharge claim. The Third Circuit employs an "objective test" that analyzes whether "the employer permitted conditions so unpleasant or difficult that a reasonable person would have felt compelled to resign." *Lett v. Se. Pennsylvania Transportation Auth.*, No. CV 19-3170-KSM, 2022 WL 4542093, at *13 (E.D. Pa. Sept. 27, 2022). "Courts in this Circuit have recognized that the failure to accommodate an employee's disability can give rise to an inference of constructive discharge." *Id.* To determine when an employer's failure to accommodate rises to the level of constructive discharge courts generally look at whether the employee repeatedly requested the accommodation and that request was denied and no reasonable alternative was offered. *Id.* at 14.

Here, the evidence shows that Robbins requested to full time telework three times. The first time was her initial request on September 15, 2022. C.E. 13. The second time was her Request for Reconsideration on October 13, 2022. C.E. 17. The third time was on October 31,

2022, when Robbins asked that she be permitted to continue full time telework for 90 days. C.E.

19. On November 2, 2022, Respondent notified Robbins via letter, that it was conditionally approving her for continuous FMLA leave, for the duration of her FMLA entitlement. R.E.25.

The letter further read, “You will be permitted to return to work once your treating physician releases you to return to work to perform the essential functions of your position, which includes the ability to report in person to your assigned worksite at the PUC headquarters.” *Id.*

Respondent admitted that Robbins was locked out of her work accounts while she was on FMLA leave. Tr. 299. Based on these facts, the Commission finds that Complainant established a prima facie case for constructive discharge.

Respondent then had to produce a legitimate non-discriminatory reason for its actions. Here, Respondent did produce a legitimate non-discriminatory reason for its actions. Respondent’s articulated reason was that Robbins was unable to perform an essential function of her job specifically reporting to the office in person. Since Respondent produced a legitimate non-discriminatory reason for its actions, the burden shifted back to Robbins to show that the Respondent’s reason was pretext for discrimination.

To show that Respondent’s reason is pretext, Robbins must demonstrate “such weaknesses, implausibilities, inconsistencies, incoherencies or contradictions in [] proffered reason for [] actions that a reasonable factfinder could find it unworthy of credence.” *Krouse, v. American Sterilizer Co.*, 126 F.3d 494, 504 (internal quotation marks omitted). As analyzed above, reporting to the office twice per week was not an essential function of Complainant’s job and the Respondent failed to conduct an individualized assessment of Complainant’s job when considering her proposed accommodation of full time telework. Therefore, the Commission finds that Robbins has established that Respondent’s stated reason was pretext for discrimination.

Thus, Robbins is entitled to damages on her constructive discharge claim. The Commission now turns to the issue of appropriate 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 Robbins 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).

In this case, Robbins has established that she is entitled to back pay beginning on January 12, 2023, the date of her constructive discharge through October 16, 2024, the date of the public hearing. This period is approximately 92 weeks. While employed with Respondent, Robbins worked 37.5 hours per week, earned \$24.79 per hour, and was paid biweekly. C.E. 34. Her gross pay was \$930.00 per week.

The amount Complainant lost in wages because she was constructively discharged on January 12, 2023, is calculated as follows:

January 12, 2023 through October 16, 2024 = 92 weeks

Total Lost Wages = 92 weeks @ \$930.00 per week = \$85,560.00

Complainant is entitled to back pay, less the amount earned in subsequent employment. It is the Respondent's burden to establish that the Complainant failed to mitigate her damages 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). In the instant case, Respondent failed to introduce any evidence to establish that Robbins failed to mitigate her damages.

Notwithstanding, Respondent is entitled to offset back pay damages with interim earnings received after Complainant's discharge. Robbins presented sufficient evidence that following the termination, she made reasonable attempts to mitigate her damages. The evidence shows that after being terminated by Respondent, Robbins applied to more than 100 jobs. C.E. 35. She obtained part-time employment with the Autistic Culture Podcast in or about September 2023. Tr. 44. Robbins testified that she worked 18.6 hours per week and earned \$25.00 per hour. *Id.* Robbins testified that she lost the job a few weeks prior to the public hearing. Tr 43.

Robbins also testified that she returned to school in fall 2024. *Id.* Courts must consider "whether an individual's furtherance of his education is inconsistent with his responsibility to use

reasonable diligence in finding other suitable employment.” *Lazer Spot, Inc. v. Pennsylvania Hum. Rels. Comm’n*, No. 459 C.D. 2017, 2018 WL 670621, at *12 (Pa. Cmwlth 2018).

The Commission finds that Complainant’s returning to school was not inconsistent with her duty to find other suitable employment because Robbins credibly testified that she continued to search for both full and part time opportunities while in school. Tr. 103-104, Additionally while the record does not include exact dates regarding when Robbins started school or when she lost her job at the Autistic Culture Podcast, the Commission finds it reasonable to infer that the fall 2024 semester started prior to October 2024 meaning that Robbins worked part time for some of the time she was in school. Therefore, the Commission finds that Robbins is entitled to back pay through the date of the public hearing. The following calculations illustrate the amount to be deducted as amounts Complainant earned in mitigation of her damages:

Autistic Culture Podcast \$25.00 x18.6 hours = \$465.00 per week

September 1, 2023 through October 4, 2024 = approximately 57 weeks

\$465.00 x 57 weeks = \$26,505.00 in total replacement pay

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

Unmitigated back pay = \$85,560.00

Minus replacement pay = \$26,505.00

Mitigated wage loss = \$59,055.00

Robbins also had two retirement savings accounts at the time she was discharged by Respondent. The total account balance on her Defined Contribution Plan was \$7,301.31 and the total account balance on her Deferred Compensation Plan was \$1,153.52. C.E. 36. The

Commission finds that she is entitled to those amounts. The new value of Complainant's owed backpay follows:

Mitigated wage loss	=	\$59,055.00
Amount in Defined Contribution Plan	=	\$7,301.31
Amount in Deferred Compensation Plan	=	\$1,153.52

TOTAL = \$ 67,509.83

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

Lost back pay and benefits	=	\$67,509.83
plus 6% simple interest	=	\$4,050.59

TOTAL AWARD = \$71,560.42

In her post-hearing brief, Robbins also requests front pay in the amount of \$930.00 per week for a period of two years. The \$930.00 per week is the amount that Robbins was earning when she was discharged by Respondent. The power of the Commission to award front pay was recognized in *Williamsburg Community School District v. Pa. Human Rels. Comm'n*, 99 P. 206, 512 A.2d 1339 (1986). The Third Circuit has held that "front pay is an alternative to the traditional equitable remedy of reinstatement, which would be inappropriate where there is a likelihood of continuing disharmony between the parties or unavailable because no comparable position exists." *Donlin v. Philips Lighting N. Am. Corp.*, 581 F.3d 73, 86 (3d Cir. 2009)(internal citations omitted). Here, the Commission finds that reinstatement is not feasible given

Complainant's testimony about how she felt after her accommodation was denied. Robbins testified that she felt "dehumanized" by Respondent's denial of her accommodation request. Tr. 73. She further testified that, "it felt like the PUC was saying now that we know you are disabled, we don't want you to work here." Tr. 78. Finally, Complainant testified that it felt like Respondent was firing her when it put her on indefinite paid leave that she never requested. Tr. 79. Since reinstatement is not feasible, the Commission finds that an award of front pay is appropriate. The Commission has discretion in setting the cutoff date of the equitable front pay remedy subject to the limitation that front pay only be awarded for a reasonable future period required for the employment discrimination victim to reestablish her rightful place in the job market. See *Donlin* at 86. Here the Complainant testified that she returned to school so that she could be her own boss where no one would be able to take away her access to her job. Tr. 105. Robbins is working on her master's degree and is looking for jobs in that field. Tr. 104. Based upon all the evidence, the Commission finds that front pay in the amount of \$930.00 per week for one year is appropriate.

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

River Robbins,	:	
Complainant	:	
v.	:	PHRC Case No. 202200982
	:	EEOC Charge No. 17F202360114
Pennsylvania Public Utility Commission,	:	
Respondent	:	

RECOMMENDATION OF PERMANENT HEARING EXAMINER

Upon consideration of the entire record in the above-captioned matter, I find that Complainant, River Robbins, has proven that Respondent discriminated against her based on her disabilities 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
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION**

River Robbins,	:	
Complainant	:	
v.	:	PHRC Case No. 202200982
	:	EEOC Charge No. 17F202360114
Pennsylvania Public Utility Commission,	:	
Respondent	:	

FINAL ORDER

AND NOW, this 24th day of February 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 the Pennsylvania Public Utility Commission (Respondent), shall pay River Robbins the lump sum amount of \$71,560.42, which represents mitigated lost earnings, lost retirement benefits and 6 percent interest.
2. That Respondent shall pay Robbins lost wages at the rate of \$930.00 per week, less gross interim earnings reported by Robbins, from the date of this Order and continuing for a period of one year.
3. Beginning six months after the date of this Order, and for a period of one year, Robbins shall file semi-annual reports to Respondent indicating the gross amount of earnings

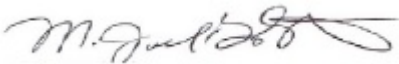
made during the previous six-month period. Upon receipt of these reports, and if the amount Robbins earned is less than what she would have earned as an employee of Respondent, Respondent shall pay to Robbins the amount of gross earnings she would have earned with Respondent minus her gross earnings during the relevant six-month period.

4. That Robbins shall continue to make good faith efforts to secure employment in mitigation of her damages.
5. That Respondent shall pay Robbins all damages as computed in this Order, within thirty (30) days of the date of this Order.
6. That payments of all amounts due to Robbins under this Order shall be made by cashier's check payable to River Robbins and delivered in care of Adrian Garcia, Director of Enforcement, Pennsylvania Human Relations Commission, 333 Market Street, 8th floor, Harrisburg, PA 17101.
7. That Respondent shall cease and desist from denying reasonable accommodations to employees with disabilities and from otherwise discriminating against employees with disabilities.
8. That Respondent shall attend mandatory training provided by the PHRC or by an entity approved by the PHRC regarding its obligations under the Pennsylvania Human Relations Act.
9. That Respondent shall implement policies requiring individualized assessments of the essential functions of a position prior to denying requests for reasonable accommodations.
10. 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 Street, 8th floor, Harrisburg, PA 17101.

11. Should an issue arise concerning any of the remedies provided herein, or should any further information or documentation be needed to determine or apply the appropriate remedy, that shall not delay the implementation of any other remedy required under this Order.

PENNSYLVANIA HUMAN RELATIONS COMMISSION

BY: 

M. Joel Bolstein
Chairperson

Attest:



O/B/O Commissioner Mayur Patel