

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

**Lainey Scheller,
Complainant**

v.

PHRC Case No. 201803678

**Erin Jackson,
Respondent**

**Pennsylvania
Human Relations Commission**

SENT

PROTHONOTARY

December 21, 2022

**FINDINGS OF FACT
CONCLUSIONS OF LAW
OPINION
RECOMMENDATION OF PERMANENT HEARING EXAMINER
FINAL ORDER**

FINDINGS OF FACT¹

1. In February 2019, Complainant, Lainey Scheller, (hereafter Scheller) and her husband signed a lease with Respondent, Erin Jackson (hereafter Jackson) and her husband Darnell Jackson to rent an apartment located at 104 Spring Street Galeton, PA 16922. R.E. 1.
2. The leased property is adjacent to Jackson's main residence. Tr.75.
3. The lease agreement for 104 Spring St. became effective February 1, 2019. R.E. 1.
4. The lease was month to month. *Id.*
5. Scheller her husband and their two children moved into the property in February 2019. Tr. 16.
6. The rent was \$550.00 per month. Tr. 44.
7. Either party could terminate the lease by providing 30 days written notice. *Id.*
8. Respondent and her husband permitted Scheller's dog, Violet, to move into the property.
Tr. 36.
9. Scheller was diagnosed with a disability, Post Traumatic Stress Disorder (PTSD), prior to moving into the property. Tr. 15-6.
10. Violet was Scheller's emotional support animal. Tr. 21.
11. From February 2019, until June 2019, Scheller and Jackson were friends. Tr. 49.
12. On June 3, 2019, Violet died. Tr. 17.
13. On June 4, 2019, Scheller texted Jackson about getting a new dog; specifically, a puppy.
C.E.1.
14. That day, Jackson responded that she and her husband would not allow a puppy because the carpet was newer, and she and her husband were worried about damage. *Id.* at 2.

¹ Abbreviations

Tr.= Hearing Transcript

C.E.= Commission Exhibit

R.E.= Respondent Exhibit

J.S. = Stipulation

15. Scheller responded by asking whether Jackson and her husband would allow a puppy if she agreed to sign a contract for carpet replacement if it was damaged. *Id.*
16. Jackson responded that the parties could discuss it further when Jackson and her husband returned from vacation, but the answer was no to puppies. *Id.*
17. Jackson and her husband returned from vacation on June 6, 2019. *Id.* at 3.
18. Scheller and Jackson spoke face to-face on June 6, 2019, to discuss Scheller getting a puppy. Tr. 23.
19. On June 6, 2019, Scheller presented Jackson with a letter from her health care provider dated June 5, 2019, explaining that the puppy was an emotional support animal to help alleviate symptoms from Post-Traumatic Stress Disorder. (PTSD). Tr. 24-5, 56 C.E. 2.
On June 8, 2019, Scheller went to Jackson's house to discuss the possibility of getting a puppy again. Tr. 60, 90.
20. After the interaction, Jackson immediately called her mother to have her inform Mr. Jackson to come home. Tr. 93.
21. When Mr. Jackson got home, he called 911. *Id.*
22. Officer Christopher Brackman came to Jackson's house. Tr. 142.
23. Jackson had "no clue" where Scheller was when Jackson's husband called 911. Tr.105.
24. Following the interaction, Scheller went down to the creek with a gun. Tr. 29.
25. Scheller only intended to hurt herself. Tr. 68-9.
26. Jackson was not near Scheller while Scheller had the gun. Tr. 68-9 and 96.
27. Scheller got out of the creek, changed into dry clothes and went to the hospital. Tr at 30.
28. On June 8, 2019, Jackson put up no trespassing signs. *Id.* at 34-5.
29. Jackson had her lawyer send Scheller a notice to quit, which was dated June 11, 2019. R.E. 2.
30. Scheller moved out on June 14, 2019. Tr. 34.
31. Scheller paid \$88.91 for a UHaul. Tr.39 and C.E. 4.
32. Scheller paid \$500.00 cash to movers who helped her move. Tr. 39.
33. The rent in Scheller's next apartment was \$800.00 per month. Tr. 38.

34. On or about July 15, 2019, Scheller filed a verified Complaint against Jackson, with the Pennsylvania Human Relations Commission. J.S.

35. The Complaint was served upon the Jackson on August 7, 2019. J.S.

36. Jackson, on or about August 19, 2019, filed a verified Answer. J.S.

37. Following an investigation, probable cause findings were approved by the legal division on September 17, 2021. J.S.

38. Conciliation failed on November 2, 2021, after Jackson refused to attend. J.S.

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 have fully complied with the procedural prerequisites to a Public Hearing in this case.
3. Lainey Scheller, (hereinafter “Scheller”), is an individual within the meaning of the PHRA.
4. Erin Jackson, (hereinafter “Jackson”), is a housing provider within the meaning of the PHRA.
5. To establish a prima facie case of discrimination by refusing to provide a reasonable accommodation Scheller must show:
 - A. She is a person with a disability
 - B. Jackson knew or reasonably should have known that Scheller is a person with a disability
 - C. Scheller requested an accommodation in Jackson’s rules, policies, practices, or services
 - D. The requested accommodation may be necessary to afford Scheller an equal opportunity to use and enjoy the dwelling and
 - E. Jackson refused to make the accommodation Scheller requested.
6. Scheller has established a prima facie case of discrimination for refusing to provide a reasonable accommodation.
7. Once Scheller established a prima facie case of discrimination, the burden shifted to Jackson to show that the proposed accommodation was unreasonable.

8. Jackson failed to establish that the proposed accommodation was unreasonable.

9. To establish a prima facie case of a retaliation, Scheller must show:

A. That she participated in a protected activity;

B. That Jackson was aware of Scheller's participation in a protected activity;

C. That after Scheller's participation in a protected activity, Scheller, suffered an adverse action; and

D. That a causal connection exists between the protected activity and the adverse action.

10. Requesting a reasonable accommodation is a protected activity under the PHRA.

11. Scheller failed to establish a prima facie case of retaliation based on changes in the terms of the lease.

12. Scheller established a prima facie case of retaliation based on eviction.

12. Jackson offered a legitimate non-discriminatory reason for terminating Scheller's lease.

13. Scheller has proven that Jackson's reason for terminating her lease is a pretext for unlawful retaliation.

OPINION

This case arises out of a complaint filed by Lainey Scheller (hereinafter "Scheller") against Erin Jackson (hereinafter "Jackson"). Scheller's PHRC Complaint was filed on or about July 15, 2019, at PHRC Case Number 201803678. Scheller's Complaint alleges that Jackson failed to accommodate Scheller's alleged disability, Post Traumatic Stress Disorder (PTSD), and retaliated against Scheller because of her alleged disability.

Pennsylvania Human Relations Commission (hereinafter "PHRC") staff investigated the Complaint and found probable cause to credit all Scheller's allegations of discrimination. The PHRC and the parties attempted to resolve the case through conference, conciliation and persuasion. The efforts were unsuccessful, and the case was approved for a public hearing. The parties waived their right to an in person hearing and the hearing was held virtually on May 27, 2022, before Darlene Hemerka, Permanent Hearing Examiner. Stephanie M. Chapman Esquire presented the Commonwealth's interest in Scheller's complaint. Edwin Stock, Esquire, represented Jackson. The parties submitted post-hearing briefs in August 2022.

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

The Pennsylvania Human Relations Act (PHRA) provisions are supplemented by applicable regulations promulgated by the PHRC at 16 Pa. Code §44.4. The regulations state

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 lifeactivities.
 - (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.

(16 Pa. Code §44.4)

Section 5(h) of the PHRA provides in relevant part

“It shall be an unlawful discriminatory practice...for a person to refuse to make reasonable accommodations in rules, policies or practices or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a housing accommodation.”

To establish a prima facie case of a refusal to provide a reasonable accommodation Scheller must show by a preponderance of the evidence that

- A. She is a person with a disability.
- B. Jackson knew or reasonably should have known that Scheller is a person with a disability.
- C. Scheller requested an accommodation in Jackson's rules, policies, practices, or services

The requested accommodation may be necessary to afford Scheller an equal opportunity to use and enjoy the dwelling and
- D. Jackson refused to make the accommodation Scheller requested.

Regarding the first element, Scheller testified that she has PTSD and that she was diagnosed years ago. Tr.16. According to the Complaint and Scheller's testimony, PTSD, limits her ability to concentrate, think, relate to others and handle distress. Tr.70 and C.E. 5. Jackson argues that Scheller's PTSD is not a disability because it does not substantially limit a major life activity. In support of this argument, Jackson highlights the fact that Scheller was working before and after the alleged discrimination. This argument is not persuasive for two reasons. First, this Commission has held that PTSD is a disability in "virtually all cases" because PTSD substantially limits brain function. *See Harrison v. Lazer Spot Inc.* PHRC Case No. 201300300 at 32 (citing 29 C.F.R. §1630.2(j)(3)(iii)). Additionally, the facts in this case show that Scheller's brain function relating to handling stress was substantially limited because Scheller went down to the creek, with a gun, intending to commit suicide, after Jackson refused to allow a puppy in the property. Therefore, Scheller satisfied the first prong of the prima facie case.

Regarding the second element of the prima facie case, Jackson disputes that she knew of Scheller's disability. However, Jackson's testimony was not credible on this issue. Jackson testified that Scheller never gave her the doctor's note but may have given it to her husband. Tr. 87. Jackson further testified that she never read the letter and that Scheller never explained the contents of the letter. *Id.* Jackson's testimony was directly contradicted by Officer Christopher Brackman who was called to the property on June 8, 2019. Officer Brackman testified that he created a summary report of the incident. Tr. 142. The summary report is R.E. 3. According to Officer Brackman's testimony, Lainey Scheller went to 102 Spring Street and told Erin Jackson that there were federal laws that they could not refuse her getting a puppy for her PTSD. Tr. 143-44. Lainey Scheller attempted to give Erin Jackson the paper explaining the guidelines that dealt with the PTSD in-service dog. Tr.144. When asked who told him that information, Officer Brackman testified that Erin told him. *Id.* Based upon Officer Brackman's testimony, it's clear that Jackson knew about Scheller's disability.

Officer Brackman's testimony also shows that Scheller requested a reasonable accommodation of being allowed to have a puppy serve as her emotional support animal. Scheller informed Jackson of her disability verbally and provided a letter from a social worker who was treating Scheller for her PTSD at the time. Therefore, this element is satisfied.

To satisfy the fourth element of the prima facie case, Scheller must show that the emotional support animal may be necessary to afford her an equal opportunity to use and enjoy the dwelling. Here Scheller testified credibly that Violet, the dog that she had when she initially moved into the property was an emotional support animal. Tr. 21. Thus, Scheller had an emotional support animal the entire time she lived there. In addition, the letter from the social worker who was treating Scheller for PTSD at the time of the incident said,

“As a result of mental illness, Lainey has certain limitations related to anxiety, depression and distress tolerance. In order to assist in alleviating these difficulties and improve her quality of life while using the dwelling you rent or own, I am proscribing an emotional support animal that will help Mrs. Scheller in dealing with her disability better.” C.E. 2.

Both Scheller’s testimony and the letter from her treating provider were uncontradicted.

Therefore, Scheller has shown that the emotional support animal may be necessary to afford her an equal opportunity to use and enjoy the dwelling.

The final element that Scheller must establish is that Jackson refused to provide the requested accommodation. It is undisputed that Jackson refused to allow Scheller to get a puppy. Therefore, this element is satisfied.

Since Scheller established a prima facie case of discrimination, the burden shifts to Jackson to show that the accommodation requested; a puppy, was unreasonable. Jackson argues that she did not agree to Scheller getting a puppy because puppies are not trained and the carpet in the apartment was fairly new and that her and her husband had issues with puppies in the past. See C.E.1 1-2. These reasons do not show that a puppy was unreasonable. This finding is particularly true given that Scheller offered to pay for any damage the puppy caused. *Id.* Yet, Jackson acknowledged that she never responded to that offer. Tr.107.

Since Scheller established a prima facie case and Jackson failed to meet her burden of showing the requested accommodation was unreasonable the Hearing Examiner finds in favor of Scheller on the reasonable accommodation claim.

Scheller’s second and third claims are that Jackson retaliated against her in violation of the PHRA.

Under Section 5(d) of the PHRA, “It shall be an unlawful discriminatory practice...for a person... to discriminate in any manner against any individual because such individual has opposed any practice forbidden by this act or because such individual has made a charge, testified or assisted in any investigation, proceeding or hearing under this act.”

Absent direct evidence, to establish a *prima facie* case of retaliation under the PHRA, it is appropriate to use the three-step, burden shifting analysis set forth in *McDonnell Douglas Corporation v. Green*, 411 U.S. 792 (1973). The three steps begin with a Complainant attempting to prove a *prima facie* case. The second step occurs once a Complainant does set forth the requisite *prima facie* showing. In the second step, the Respondent merely has a production burden to articulate a legitimate non-discriminatory reason for taking the alleged adverse action. The third step arises when a legitimate reason has been sufficiently articulated. At this third step, the Complainant is provided with an opportunity to prove that the articulated reason is a pretext for discrimination.

To establish a *prima facie* case that Jackson retaliated against her, Scheller must show four things: 1. That she participated in a protected activity; 2. That Jackson was aware of Scheller's participation in a protected activity; 3. That after Scheller's participation in a protected activity, Scheller, suffered an adverse action; and 4. That a causal connection exists between the protected activity and the adverse action. *Spanish Council of York v. Pa. Human Relations Commission*, 879 A.2d 391, 399 (Pa. Cmwlth. Ct. 2005).

Scheller's Complaint alleges two claims of retaliation. The first claim alleges that Jackson retaliated against Scheller because Scheller requested a reasonable accommodation by putting up "No Trespassing" signs around a swing set on the property and by taking down a trampoline that Scheller's family used to have access to. C.E. 5 and Tr. 34-5. The second retaliation claim is that Jackson evicted Scheller because she requested an accommodation. *Id.* The Hearing Examiner will analyze the claims simultaneously.

Regarding the first element, Pennsylvania courts and this Commission have held that requesting a reasonable accommodation for a disability is a protected activity. *See Carol*

Meyers v. Brethren Home Community PHRC Case Nos. 200505802 and 200605586 at 28-9 citing *Shellenberger v. Summit Bancorp*, 318 F.3d 183 and *Sulima v. Tobyhanna Army Depot*, 602 F.3d 177. Here Scheller, requested an accommodation: that she be allowed to have a puppy as an emotional support animal for her PTSD. Thus, the first element is satisfied.

As to the second element, Jackson disputes that she knew that the puppy was to accommodate Scheller's disability. However, Jackson's testimony was contradicted by both Scheller and Officer Brackman. Scheller testified credibly that she got a letter, which is dated June 5, 2019, from the person who was treating her PTSD on the 5th so that she could give it to Jackson, and that she did give it to Jackson the next day. Tr. 25-6. Officer Brackman testified that Jackson told him Lainey Scheller went to 102 Spring Street and told Erin Jackson that there were federal laws that they could not refuse her getting a puppy for her PTSD. Lainey Scheller attempted to give Erin Jackson the paper explaining the guidelines that dealt with the PTSD in-service dog. Tr. 143-44. Given these two pieces of evidence, Scheller has satisfied this element.

To satisfy the third element of the retaliation claim, Scheller must show that after she engaged in the protected activity, she faced an adverse action.

“Under the Fair Housing Act an adverse action, for purposes of a retaliation claim, must coerce, intimidate, threaten, or interfere with the party. An otherwise voluntary decision may be an adverse action if taken for retaliatory reasons.” However, adverse action must have some materially adverse effect on the plaintiff.” *Joseph's House & Shelter, Inc. v. City of Troy*, 641 F. Supp. 2d 154,159.

Here Scheller requested a reasonable accommodation, which is a protected activity, on June 6, 2019. Jackson put up “No Trespassing” signs on her property on or about June 9, 2022 so that Scheller could not get on her property. Jackson putting up “No Trespassing” signs did not coerce or threaten Scheller. Scheller did not prove that the signs had a

materially adverse effect on her, so she failed to establish this element as to the first claim of retaliation.

Regarding the second claim of retaliation, the Hearing Examiner finds that the eviction notice did have a “materially adverse effect” on Scheller because Scheller was forced to find somewhere else to live. Jackson had her lawyer send Scheller a notice to quit which was dated June 11, 2019. R.E. 2. This notice explained that Jackson and her husband were exercising their right to terminate the lease. *Id.* Thus, Scheller satisfied the third element as to the second claim of retaliation.

The final element requires a showing that there is a causal connection between participation in the protected activity and the adverse action. “To establish the requisite causal connection a plaintiff usually must prove either (1) an unusually suggestive temporal proximity between the protected activity and the alleged retaliatory action, *or* (2) a pattern of antagonism coupled with timing to establish a causal link.” *Lauren W. v. DeFlaminis*, 480 F.3d 259, 267 (3rd Cir. 2007). While the Third Circuit has rarely found that timing alone is sufficient to establish causation, it has done so. *See Jalil v. Avdel Corp.*, 873 F.2d 701, 708 (3d Cir. 1989), (holding that the plaintiff “demonstrated the causal link between the two by the circumstance that the discharge followed rapidly, only two days later, upon Avdel's receipt of notice of Jalil's EEOC claim.”).

Here the timing is “unduly suggestive” of discrimination as the notice to quit was dated just 5 days after Scheller initially requested the accommodation. Since Scheller satisfied all five elements of the prima facie case for her eviction claim, she established a prima facie case of retaliation on that claim.

Jackson then has the burden to offer a legitimate non-discriminatory reason for the eviction.

Jackson met this burden. Jackson testified that the reason she had her attorney send the notice to quit to Scheller was because Scheller refused to get off her property. Tr. 97. Jackson further testified that she was concerned for her safety after an interaction with Scheller on June 8, 2019, because Scheller would not get off her property or leave her alone. Tr.93-4. This testimony provides a legitimate reason for having her attorney send the notice to quit.

Once Jackson provides a legitimate non-discriminatory reason for her actions, the burden shifts back to Scheller to show that Jackson's stated reason is pretext for discrimination.

To show that Jackson's reason is pretext, Scheller 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).

There were two incidents on June 8, 2019. The first incident was an interaction between Scheller and Jackson. The second incident was Scheller went down to the lake with a gun intending to commit suicide. Tr. 68. The parties' testimony about the interaction on June 8, 2019, was drastically different. Scheller testified that she went over to Jackson's house to talk to her about a puppy, but before she had a chance to speak, Jackson began yelling at her and banging on the door. Tr. 60. Jackson testified that Scheller pounded on her door. Tr. 90. Jackson opened one door and left one door closed. Tr. 91. Jackson told Scheller she did not want to speak with her and told her to leave. *Id.* Jackson testified that she asked Scheller to leave three or four times and she would not leave so Jackson then hit the closed door and then closed the other door. 91-2. As soon as Jackson closed the door, she called her mother to have her inform Mr. Jackson to come home. Tr. 93. When Mr. Jackson got home, he called the police. *Id.*

While Jackson's stated reason for having her attorney send the notice to quit was that Scheller would not get off her property or leave her alone Jackson testified that she had "no clue" where Scheller was when her husband called the cops. Tr.105. This testimony contradicts Jackson's testimony that Scheller would not leave her property. Additionally, when Jackson's husband was asked why Scheller was sent the eviction notice he testified, "my wife did not feel secure because of the gun incident." Tr. 124. This reason is different than the reason Jackson gave in her testimony. Additionally, it is undisputed that the Jackson's were not present when Scheller had the gun. Tr. 69 and 96.

Because of the inconsistencies in Jackson's testimony and that Jackson's husband gave a different reason for sending the notice to quit, the Hearing Examiner finds that Scheller has met her burden to show that Jackson's stated reason for the eviction notice was pretext for discrimination. Therefore, the Hearing Examiner finds that Jackson did retaliate against Scheller regarding the eviction.

We thus turn 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.

Section 9(f)(2) of the PHRA provides in pertinent part:

“Such order may also assess a civil penalty against the respondent in a complaint of discrimination filed under Sections 5(h) or 5.3 of this act: (i) in an amount not exceeding ten thousand dollars (\$10,000) if the respondent has not been adjudged to have committed any prior discriminatory practice...”

The function of the remedy in a discrimination case is to make a Complainant whole by returning the Complainant to the position in which she would have been, absent the discriminatory practice. *See Albermarle Paper Co. v. Moody*, 422 U.S. 405, 418-19.

The first aspect we must consider regarding making Scheller whole is the issue of the extent of verifiable reasonable out of pocket expenses suffered. 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).

Here Scheller testified that she paid \$500.00 to movers. She also had a receipt for \$88.91 for a Uhaul. Since Scheller had a month to month lease the Hearing Examiner finds it appropriate to award her the difference between the rent she was paying Jackson which was \$550.00 and her new rent which was \$800.00 for June 2019, July 2019, and August 2019 for a total of \$750.00.

Accordingly, Scheller’s award for out of pocket expenses equals the following:

Difference in rent.....	\$750.00
U-Haul	\$88.91
Movers	\$500.00
Total... ..	\$1,338.91

Scheller also requests money for humiliation and embarrassment. Scheller testified that she needed medication, she was more depressed, very anxious and upset. Tr. 40. She described how difficult it was to explain the situation to her children, age four and seven, who thought everything that was

going on, was their fault. *Id.* Scheller had to increase her visits to the doctor from twice a month to three times per month as well. *Id.* Based on this testimony, the Hearing Examiner finds that \$6,000.00 is reasonable and appropriate for humiliation and embarrassment.

When determining the amount of the civil penalty, the factors to consider are: "the nature and circumstances of the violation, the degree of culpability, any history of prior violations, the financial circumstances of that Respondent and the goal of deterrence, and other matters as justice may require." *HUD v. Weber*, P-H, Fair Hous.Fair Lend., §25,041 (HUD ALJ, 1993). Here the evidence establishes that Jackson denied Scheller the accommodation and retaliated against her. Jackson is fully culpable for those actions. However, there is no evidence that Jackson has a history of denying accommodation requests. Also, Jackson is not a large landlord. \$3,000.00 is an appropriate amount for the civil penalty.

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

**Lainey Scheller,
Complainant**

v.

PHRC Case No. 201803678

**Erin Jackson,
Respondent**

RECOMMENDATION OF THE PERMANENT HEARING EXAMINER

Upon consideration of the entire record in the above-captioned matter, the Permanent Hearing Examiner finds that Scheller has proven she was discriminatorily denied an accommodation for her disability, PTSD, and was retaliated against because of her disability in violation of Section 5(a) of the PHRA. It is, therefore, the Permanent Hearing Examiner's recommendation that the attached Findings of Fact, Conclusions of Law, and Opinion be approved and adopted. If so, approved and adopted, the Permanent Hearing Examiner further recommends issuance of the attached Final Order.

PENNSYLVANIA HUMAN RELATIONS COMMISSION

Darlene Hemerka

Darlene Hemerka Hearing Examiner

Date September 2, 2022

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

**Lainey Scheller,
Complainant**

v.

PHRC Case No. 201803678

**Erin Jackson,
Respondent**

FINAL ORDER

AND NOW, this 19th day of December, 2022 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 Jackson shall cease and desist from discriminating against anyone who requests a reasonable accommodation under the PHRA.
2. That Jackson shall cease and desist from retaliating against anyone who engages in protected activity under the PHRA.
3. That, within 30 days of the effective date of this Order, Jackson shall pay Scheller the lump sum of \$1,338.91 which represents reasonable out of pocket expenses incurred by Scheller.

3. That, within 30 days of the effective date of this Order, Jackson shall pay Scheller \$6,000.00 in compensatory damages, which represents the embarrassment and humiliation Scheller suffered and which is directly attributable to Jackson's discriminatory and retaliatory actions.

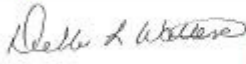
4. That, within 30 days of the effective date of this Order, Jackson shall deliver to PHRC Counsel, Stephanie M. Chapman, a check payable to the Commonwealth of Pennsylvania, in the amount of \$3,000.00, which represents an assessment of a civil penalty pursuant to Section 9(f)(2)(i) of the PHRA.

5. That, within 30 days of the effective date of this Order, Jackson shall report to the PHRC on the manner of her compliance with the terms of this Order by letter addressed to Stephanie M. Chapman, Counsel, Pennsylvania Human Relations Commission, 333 Market Street, 8th floor, Harrisburg, PA. 17101.

PENNSYLVANIA HUMAN RELATIONS COMMISSION

By: 
_____ **M. Joel Bolstein**

ATTEST:

By:  O/B/O Commissioner Mayur Patel
_____ **Mayur Patel, Secretary**

Complainant:

Lainey Scheller
108 N. East Street
Coudersport, PA 16915
Schellerlainey@gmail.com
Via email and mail

For the Respondent:

Edwin Stock, Esquire
Roland Stock
627 North Fourth Street
P.O. Box 902
Reading, PA 19601
estock@rrslegal.com
Via email and mail

For the Commission:

Stephanie Chapman, Esquire
Senior Prosecuting Attorney
Pennsylvania Human Relations Commission
333 Market Street, 8th Floor,
Harrisburg, PA 17126
schapman@pa.gov
Via email