

Carl F. LaFond)
New Hampshire Commission for)
Human Rights)
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and)
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Sanel Auto Parts, Inc.)
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DECISION

Sitting Commissioners, Paine, Figueroa, Gibbs and Cobb.

Carl F. LaFond was employed by Sanel Auto Parts, Inc., (the Company) from February 1946 through August 16, 1976. For the first four years of employment with the Company, LaFond served as a counterman and for twenty-six years as manager and supervisor for various of the company's stores. In October 1975, as a result of a back injury, LaFond was advised by Alfred Sanel to take an extended temporary leave of absence, during which time he would be able to collect disability insurance for a six-month period.

On 8/10/76, LaFond was certified as fit to work by his physician, Howard W. Halfmann, M.D., Laconia, and so informed the Company. The Company did not reply to LaFond's request until the middle of June 1976, at which time Alfred Sanel informed LaFond that no job was available and that the Company wanted to place LaFond on retirement. On June 21, 1976, LaFond filed a Charge of Discrimination with the Human Rights Commission alleging discrimination because of age. The matter was originally brought to Public Hearing on May 6, 1977, at which time the Commission found Respondent in violation of Rule 3 of the Commission's Rules of Practice and Procedure, and found for LaFond. On Rehearing July 29, 1977, the Commission Vacated the original Order of May 6, 1977, and a Hearing on the merits was held September 9, 1977, at which time evidence was presented to the effect that LaFond had never been informed of his termination, that Alfred Sanel testified that he would have fired LaFond fifteen years ago "if my father had let me," and that no genuine effort had been made to place LaFond in another comparable position even though LaFond had stated his willingness for such an action. See Schultz v. Hickok Manufacturing Co., U.S. D.C. Northern District Georgia, in which the Court found in an age discrimination case for the plaintiff, stating that no letter of discharge, stating the reason, was given to the plaintiff nor was a job offer forthcoming.

It is the unanimous Decision of the Commissioners that LaFond, having reached an age (61) when he would be entitled to retirement benefits, all other reasons for his termination represented a subterfuge for terminating LaFond, if not solely, than predominately, because of his age; (See Hodgson v. Sugar Cane Growers, U.S. D.C. Southern District Florida) and that therefore the Company is in violation of NIRS354-A:8, I, in that LaFond was denied terms, conditions or provisions of employment (rehire subsequent to temporary sick leave) because of his age.

Remedy :

1. The Company is ordered to reinstate LaFond at his previous position or a comparable one with equal responsibilities at the same rate of pay LaFond would have been receiving had he not been terminated on August 16, 1976.
2. The Company is ordered to make full back pay with all benefits including, but not limited to, OASI, pensions or retirement plans, and medical plans. Back pay shall be computed in the following manner: For the period August 16, 1976, through July 29, 1977, at LaFond's previous rate of pay, \$336 per week, less LaFond's gross income for the like period, plus 6% interest.
3. The Company will take no adverse action against LaFond prior to submitting to the Commission the reasons for such action.
4. The Company will conduct all employment practices in accordance with NHRS354-A, and the Commission makes available its good offices for technical assistance.
5. The Company is ordered to pay \$1750.00 in attorney fees to James D. O'Neill, Esquire.
6. All awards in this Agreement will be made payable to Carl F. LaFond and James D. O'Neill, Esquire, and will be mailed to the New Hampshire Commission for Human Rights, 66 South Street, Concord, New Hampshire, certified, return receipt requested.

So Ordered.



Carl F. Paine
Chairperson

11/15/77