

closed 5/29/79

Constance E. Stinson)
New Hampshire Commission for)
Human Rights)
)
v.)
)
Norm's Hardware)
)
_____)

ORDER

A complaint by Constance E. Stinson was filed with the New Hampshire Commission for Human Rights on 3 November 1977, was assigned to Commissioner Romeo J. Rejimbai, and investigated by Mr. Richard B. Johnson. On 5/16/78 Commissioner Rejimbai found Probable Cause to credit the allegations contained in the complaint and, based on subsequent information supplied by the respondent, Commissioner Rejimbai reaffirmed his Probable Cause Finding on 9/26/78.

All attempts at conciliation failed and notice of a Public Hearing to be held 4/6/79 at 2:00 pm (subsequently changed by the Commission to 4/20/79, 10:30 am) was sent to both respondent and complainant. A Hearing was held Friday, April 20, 1979, at 10:30 am, and the Hearing Commissioners were:

Commissioner Gail F. Paine, Intervale;
Commissioner Ivorey Cobb, Colebrook;
Commissioner Nancy Richards-Stower, Merrimack;
Commissioner Robert J. Normandeau, Hooksett.

Under examination it was determined that complainant began work on 20 October 1977 as a clerk with the respondent company. Part of her duties included the lifting and moving of heavy materials (concrete bags, lawn mowers, etc.) to which she offered no objection and was told by respondent that where possible, accommodations would be made. On 24 October 1977 complainant called respondent's Hudson store at 10:30 am, telling the employee who answered the phone that she was too ill to work that day. The message became garbled in its transmittal so that respondent received the message that complainant was ill and "did not think" she would be able to report to work. She was subsequently terminated.

Under examination Mr. Peterson admitted he did not know the cause (menstrual cramps) of complainant's illness, that he had been told that complainant "did not think" she would be able to work, that an important meeting, requiring complainant to cover as a member of a very small workforce, had been scheduled for that day, and that anyone regardless of sex would have been terminated under similar circumstances.

Commissioner Normandeau finds that as a result of the complainant's short work experience for the respondent and respondent's small workforce, complainant did nothing to explain to respondent the nature of her illness and that an explanation was forthcoming subsequent to the hire of a clerk to replace her (male) and complainant was not treated in a discriminatory manner.

Commissioner Richards-Stower finds that the employee who relayed the complainant's original statement to the respondent did not misstate the message because of complainant's sex, but termination was the result of such misinformation, that the respondent felt the complainant was being irresponsible in her failure to work, that complainant would not have been terminated had respondent received an accurate message, and that complainant was terminated, not on the basis of her sex, but because of a confused telephonic message.

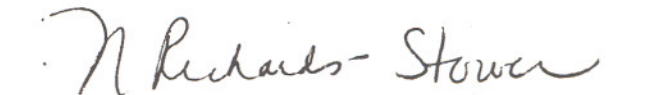
All four Hearing Commissioners agree that complainant was not terminated on the basis of sex as prohibited by RS354-A:8,I, and therefore dismiss the complaint.

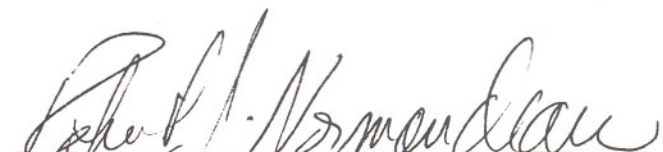
So Ordered.




Gail F. Paine, Commissioner


Ivorey Cobb, Commissioner


Nancy Richards-Stower, Commissioner


Robert J. Normandeau, Commissioner

29 May 1979