



Maine Human Rights Commission

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COMMISSION MEETING MINUTES AUGUST 23, 2021

19 Union Street, Third Floor, Augusta, ME 04333 and via ZOOM

Commissioner Deborah Whitworth chaired the meeting and called it to order at 8:30 AM. Also present were Commissioners Jeff Ashby, Jill Duson and Julie O'Brien.

AGENDA

Commissioner Ashby moved, seconded by Commissioner Duson, to adopt the Amended Agenda and Consent Agenda to accept the Investigator's recommended decision in each of the cases listed on the Consent Agenda (see listing on page 3). 4 in favor | 0 opposed.

MINUTES

Commissioner Ashby moved, seconded by Commissioner Duson, to adopt the July 19, 2021 Commission Meeting Minutes. 4 in favor | 0 opposed.

ADMINISTRATION

Monthly reports: Executive Director Sneirson discussed reporting on the following Commission activities:

- Personnel: nothing new to report.
- Compliance: Since the last meeting, there were 2 unsuccessful conciliations and 2 successful conciliation. 12 reasonable-grounds cases remain in active conciliation. There was also one post-conciliation agreement.
- Commissioner Ashby moved, seconded by Commissioner Duson, to accept the conciliation agreements in the reasonable-grounds cases of O'Donnell v. CrabApple Whitewater (ED/PA19-0375A) and Willett v. Oceanside Condominium Association (H20-0531), as well as the post-conciliation agreement in Johnson and Johnson v. Auger (H20-0524A). 4 in favor | 0 opposed.
- New Charges: 63 new complaints filed in July 2021.
- Administrative Dismissals: 13 administrative dismissals issued in July 2021.
- There were 20 predetermination settlement agreements totaling \$499,000 in benefits to complainants.

NEW BUSINESS

Executive Director Sneirson noted that the Commission had issued a press release informing the public about changes to the MHRA that would become effective in October 2021, and that the Commission staff was preparing draft rules to implement the MHRA changes. E.D. Sneirson reported that the Commission had been preparing for employees to return to regular office attendance after Labor Day, but that those plans have been delayed due to coronavirus safety concerns.

At 8:46 AM Commissioner Whitworth began the case hearing agenda.

CASES VOTED ON

H20-0085-A/B/C*: Robin Janelle (Augusta) v. Mae E. Simmons (South China), Dennis Simmons (South China),

Amanda Olson, Executive Director (Augusta), Augusta Housing Authority (Augusta), Danielle Thibodeau (Augusta) Logan McNeill (Augusta), Tatiana Nirza (Augusta), MaKenzie Hewins (Augusta) and John Wilcox (Augusta).

- Recommended decisions 1 and 2: Attorney Scott Dolan restated the position of Respondents Mae Simmons and Dennis Simmons, and Robin Janelle restated her position as the Complainant. Recommended decision three: tabled. Recommended decisions four and five: Complainant Robin Janelle restated her position as the Complainant; Attorney Dolan restated the positions of Respondents Mae Simmons and Dennis Simmons; Attorney Jason Theobald restated the positions of Respondents Augusta Housing Authority, Olson, Thibodeau, McNeill, and Nirza; and Respondents Hewins and Wilcox were not present.
- Investigator Alice Neal reviewed their report and all recommendations.
- Commissioner Ashby moved, seconded by Commissioner Duson, to find **reasonable grounds** to believe that Mae Simmons and Dennis Simmons discriminated against Robin Janelle on the basis of disability when they treated her differently in the terms and conditions of her housing (denial of reasonable accommodations). 3 in favor | 1 opposed (O'Brien opposed).
- Commissioner Ashby moved, seconded by Commissioner O'Brien, to find there are no reasonable grounds to believe that Mae Simmons and Dennis Simmons retaliated against Robin Janelle for asserting her rights under the Maine Human Rights Act. 3 in favor | 1 opposed (Duson opposed).
- Commissioner O'Brien moved, seconded by Commissioner Duson, to find there are no reasonable grounds to believe that Mae Simmons and Dennis Simmons discriminated against Robin Janelle on the basis of race, national origin, and/or ancestry when they treated her differently in the terms and conditions of her housing (denied her reasonable accommodation, treated her differently than other tenants, and made housing unavailable), and that there are no reasonable grounds to believe that Amanda Olson, Augusta Housing Authority, Danielle Thibodeau, Logan McNeill, Tatiana Nirza, MaKenzie Hewins, or John Wilcox retaliated against Robin Janelle for asserting her rights under the Maine Human Rights Act. 4 in favor | 0 opposed.
- Commissioner Ashby moved, seconded by Commissioner Duson, to find **reasonable grounds** to believe that Mae Simmons and Dennis Simmons discriminated against Robin Janelle on the basis of disability when they treated her differently in the terms and conditions of her housing (making housing unavailable). 3 in favor | 1 opposed (O'Brien opposed).

E20-0118: Richard Gaboury (Sidney) v. State of Maine Dept. of Transportation (Augusta). Richard Gaboury restated his position as the Complainant. Attorney Kelly Morrell restated the position of the Respondent. Investigator Kit Thomson Crossman reviewed their report and recommendations. Commissioner Duson moved, seconded by Commissioner Ashby, to find there are no reasonable grounds to believe that the State of Maine Department of Transportation discriminated against Richard Gaboury on the basis of disability. 4 in favor | 0 opposed. Commissioner O'Brien moved, seconded by Commissioner Ashby, to find there are no reasonable grounds to believe that the State of Maine Department of Transportation retaliated against Richard Gaboury for engaging in MHRA-protected activity. 4 in favor | 0 opposed.

E19-0370: Jessica McEwen (Biddeford) v. Long Creek Youth Development Center (Augusta). Complainant was not present. Commissioner Duson moved, seconded by Commissioner O'Brien, to find there are no reasonable grounds to believe that Long Creek Youth Development Center/Department of Corrections created a hostile working environment resulting in the discrimination against Jessica McEwen on the basis of sex. 3 in favor | 0 opposed | 1 recused (Ashby recused). Commissioner O'Brien moved, seconded by Commissioner Duson, to find there are no reasonable grounds to believe that Long Creek Youth Development Center/Department of Corrections unlawfully retaliated against Jessica McEwen for engaging in WPA - nd/or MHRA-protected conduct. 3 in favor | 0 opposed | 1 recused (Ashby recused).

EXECUTIVE SESSION

At 11:20 AM, Commissioner Whitworth moved, seconded by Commissioner Duson, to go into executive session to discuss pending or contemplated litigation and the Commission's legal rights and duties with Commission Counsel pursuant 1 M.R.S. §405(6)(E). 4 in favor | 0 opposed.

At approximately 11:40 AM, Commissioner Ashby moved, seconded by Commissioner Whitworth, to come out of Executive Session. 4 in favor | 0 opposed.

Commissioner Ashby moved, seconded by Commissioner Duson, to litigate Buckley, et al. v. Graiver & Graiver (H20-0423), a reasonable-grounds case in which conciliation was not successful. 4 in favor | 0 opposed.

Commissioner Duson moved, seconded by Commissioner Whitworth, to not litigate the following reasonable-grounds cases in which conciliation was not successful:

- McCormick v. Toothaker (PA20-0108)
- Staev v. Michael E. O'Brien Assoc.(E20-0051)
- Wood v. Waldoboro Chiropractic & Spa (E20-0377)
- Ikossi v. St. Mary's Regional Medical Center et al. (E19-0140-A-G)
- Cyr v. City of Caribou et al. (E19-200-A-C)
- Mann v. City of Saco (E18-0499-A)

4 in favor | 0 opposed.

At approximately 11:42 AM the meeting was adjourned.

CONSENT AGENDA

The consent agenda is a listing of cases scheduled on the Commission's meeting agenda in which there was no written disagreement to the Investigator's recommendation. Commissioners considered these cases without oral argument by the parties.

E19-0489	Don Juan Moses (Gorham) v. Liberty Bell Moving & Storage, Inc. (Windham) NRG
E20-0167 NRG	Lori Richardson (Poland) v. RSU 16 (Poland)
E20-0381* (Windham)	Morgan Boyer (Gray) v. Nicholas Welch RG
E20-0493*	Porsche Holcomb (Holcomb) v. Braydon Grant (Patten) RG
H21-0125	Heather Gallant (Belfast) v. Realty Resources Management (Rockport) NRG
H21-0137	Kevin Voll (Sanford) v. Fastrack Field Services, LLC. NRG
H21-0138AB	Ralph Mathis (Bangor) v. Community Housing of Maine, Inc. (Portland) and Kyra Walker (Portland) NRG
PA19-0369AB	Reginaldo Cerqueira (Bar Harbor) v. Lynn Nutti (Ellsworth) and Northern Light Maine Coast Hospital (Ellsworth) NRG

CASES TABLED

E19-0274*	Marc McKellar (Bath) v. The Hertz Corporation (Oklahoma City, OK)
E19-0424*	Ricky Ho, on behalf of Son (Gorham) v. Charlie's Philly Steakery (South Portland)
H20-0085A*	Robin Jannelle (Augusta) v. Norma Duperre (Augusta), Eileen Williams (Augusta)
H21-0126	Barbara Dow (South Portland) v. South Portland Housing Authority (South Portland)
H21-0127AB*	Warren Malcolm (Indianapolis, IN) v. Apartments at Brunswick Landing, LLC. (Falmouth) and Maine Properties, LLC (Scarborough)

H21-0139AB Victoria Rioux (Scarborough) v. Avesta Housing Management Corporation (Portland) and Avesta Southgate, LP
(Portland)

H21-0140AB Kathleen Punsky (Scarborough) v. Avesta Housing Management Corporation (Portland) and Avesta Southgate, LP
(Portland)

* Indicates a case in which a "reasonable grounds" finding was recommended