



Meeting Minutes

First Floor Conference Room, City Hall

March 16, 2016

3:00pm

Commission members present:, Kendra Gottsleben, Sarah Jo Jorgensen, Sheila Sandness, Walter Schaefer, Tana Zwart, Deb Aden, Lori Lewison

Commission members absent: Kevin Horner, Joyce Heiser

Staff present: Colleen Moran, Human Relations Manager; Tina Lemieux, Human Relations Coordinator; Brooke Pape, Intern

Guest(s) present: Patrick Anderson, Argus Leader Reporter

Call to Order

Co-Chair Lori Lewison called the meeting to order at 3:02 P.M.

Welcome Guest(s)

The Commission welcomed Patrick Anderson, reporter for the Argus Leader

Approval of Minutes

Sandness moved to approve the meeting minutes from February 17, 2016. Gottsleben seconded. The minutes were unanimously approved.

Disability Rights Updates

The first update involved Texas-based BNSF Railway Co. who has been ordered to pay \$95,000 to a qualified applicant denied hire because of an old back injury and also awarded permanent injunctive relief.

According to the court's prior order, BNSF violated the Americans with Disabilities Act (ADA) "on its face" when it simply stopped its hiring process after Russell Holt disclosed his prior back injury. According to EEOC's lawsuit, Holt, an experienced patrol deputy and criminal investigator, received a conditional job offer for a senior patrol officer position with BNSF Railway in Seattle in 2011. As part of a post-offer medical process, he disclosed a back injury sustained in 2007 and a related MRI test, and at BNSF's request he had a physical examination, which showed no abnormalities or restrictions.

After receiving this information, BNSF's medical officer in Texas required Holt to provide a current MRI at his expense, an out-of-pocket cost of approximately

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\$2,000, since his doctor would not approve an insurance-reimbursable test because Holt was not experiencing any pain. Holt asked BNSF to waive the MRI requirement. The company refused, and when he failed to provide the MRI, BNSF treated Holt as having declined the job, although he had not, EEOC said.

The court's judgment includes \$62,500 in compensatory damages for Holt's emotional distress along with just under \$33,000 in back pay and interest.

The second update involved AT&T, a multi-national telecommunications company. AT&T will pay \$250,000, reinstate an employee, and furnish other relief to settle a disability discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC). EEOC had charged the company with failing to provide a reasonable accommodation to a visually impaired employee who had worked for the company since 2001.

According to EEOC's lawsuit, Miguel Meléndez began working as a switch technician in 2001 for a predecessor company, Centennial. In 2008, Meléndez became visually impaired due to diabetes. In 2009, Meléndez's doctor cleared him to return to work, at which time Meléndez requested a reasonable accommodation for his visual impairment. Specifically, he requested the use of adaptive technology software, which would allow him to use computers and programs to perform the essential functions of his job as switch technician.

Neither AT&T's predecessor, Centennial, nor AT&T ever provided a response to Meléndez's request for reasonable accommodation. In the meantime, he was removed from his position and not permitted to return to work, while the company continued to ignore his accommodation request. After waiting over a year and a half for a response to his request, Meléndez was removed from his position, EEOC said. Meléndez filed a discrimination charge with EEOC in October 2010.

Under the consent decree resolving EEOC's claims, aside from significant monetary relief, AT&T has agreed to reinstate Meléndez into a new position in its San Juan location and to offer him reasonable accommodations in compliance with the ADA. AT&T will also conduct annual training for its managers in Puerto Rico, post a notice about the lawsuit in its Puerto Rico locations where customer service representatives and its Network Field Operations employees are located, and report ADA complaints from Puerto Rico to EEOC. AT&T has also agreed to engage in affirmative recruiting of visually impaired individuals by cooperating with local organizations that serve that workforce.

New Business

The Commission had no new business to discuss.

Continuing Business

Artability 2016 – The Commission has accepted art from 90 individuals. The art will be displayed throughout March and April; the artist reception will take place

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April 8th 2016, from 6-8 P.M. Lemieux reported that LifeScape is donating food for the event and Gustaf's Greenery will donate flowers for the artists. Jorgensen has agreed to welcome guests during an introduction on April 8.

Human Relations Commission Report

Schaefer provided an update from the March Human Relations Commission meeting.

Schaefer discussed upcoming events including: Cindo de Mayo, Pride Festival, and the Festival of Cultures. The group was encouraged to volunteer for these events.

Roundtable/Public Comment

Moran reported on the Compassionate Sioux Falls kick-off event at Augustana University. The kick-off event will be held on March 31 from 5:30 p.m. – 7 p.m. Guests are encouraged to bring toiletry items to donate to the Bishop Dudley House.

Schaefer reported LifeScape will host its annual pancake breakfast at the Convention Center on April 3.

Zwart mentioned she is currently looking for individuals interested in being part of a self-advocacy group. Any person with a disability is encouraged to participate. To find out more information, contact Matt at the Center for Disabilities.

Aden will be the recipient of a Lifetime Achievement Award being presented through the National Association of Social Workers.

Jorgensen announced that Independent Living Choices is looking for a new Director of Independent Living Services.

Adjournment

Having no further business, Jorgensen moved to adjourn; Zwart seconded. The meeting adjourned at 3:44 p.m.

The next DAC meeting is scheduled for April 20, 2016, 3 p.m. in the First Floor Conference Room, City Hall.

These minutes submitted by Tina Lemieux