

BEFORE THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS

ALASKA STATE COMMISSION FOR)
HUMAN RIGHTS, PAULA M. HALEY,)
EXECUTIVE DIRECTOR, *ex rel.*)
EDWARD ACKERMAN,)
)
Complainant,)
)
v.)
)
ACCURATE IMPORT CENTER LLC,)
)
Respondent.)
_____)

ASCHR No. J-10-200

ACCUSATION

Paula M. Haley, Executive Director of the Alaska State Commission for Human Rights, *ex rel.* Edward Ackerman, hereby alleges the following against Respondent Accurate Import Center LLC:

1. Respondent Accurate Import Center LLC is an Alaska limited liability corporation that provides automotive repair and servicing and sells automotive parts at 6538 Homer Drive in Anchorage.
2. Edward Ackerman was employed by Respondent as an automobile mechanic and shop foreman from early 2006 until July 21, 2010. Mr. Ackerman was considered by Respondent to be a valuable and trustworthy employee.
3. On July 6, 2010, Mr. Ackerman was involved in an automobile accident while on his way to work, suffering a cervical strain, blunt chest trauma, and a concussion.
4. Mr. Ackerman was treated at Providence Hospital for his injuries and

released, at which time he was told that he could return to work in one week.

5. Although he was not able to return to work within a week, Mr. Ackerman informed AJ Chriswell, the owner of Accurate Import Center LLC, that his injuries were not permanent and that he expected to be able to return to work in the near future.

6. On July 15, 2010, Mr. Ackerman provided Mr. Chriswell with a note from his chiropractor stating that although he was not able to work at that time, he would be re-evaluated on July 19, 2010.

7. Less than one week later, on July 21, 2010, Mr. Chriswell terminated Mr. Ackerman's employment without giving Mr. Ackerman an opportunity to provide any follow up information about his condition. Mr. Chriswell terminated Mr. Ackerman's employment because he believed that Mr. Ackerman could no longer safely perform his job.

8. On July 26, 2010, Mr. Ackerman was released for light duty work, and on August 12, 2010, Mr. Ackerman was given a full release to return to work as an automobile mechanic.

9. On August 20, 2010, Mr. Ackerman was hired by another automotive repair and servicing company as a mechanic, performing the same functions as he did for Respondent. Mr. Ackerman still holds this position today.

10. At the time Respondent terminated his employment, Mr. Ackerman was forty-three years old.

11. Approximately two years before Mr. Ackerman was fired by Respondent,

one of Mr. Ackerman's coworkers, Joshua Cox, was involved in a motor vehicle accident, sustaining work-limiting injuries as a result.

12. Although, like Mr. Ackerman, Mr. Cox was unable to perform all of the functions of his job, Respondent allowed Mr. Cox to work light duty until he was given a full release to work.

13. Mr. Cox was approximately twenty-one years old at the time of his accident and resulting light duty work, and is substantially younger than Mr. Ackerman

**FIRST CAUSE OF ACTION
TERMINATION BECAUSE OF DISABILITY
A VIOLATION OF AS 18.80.220(a)**

14. Paragraphs 1-13 above are realleged and incorporated herein.

15. Edward Ackerman was qualified to perform all of the functions of his position with Respondent Accurate Import Center LLC.

16. Despite the fact that Mr. Ackerman was qualified to perform all of the functions of his job, AJ Chriswell, Respondent's owner, did not believe that Mr. Ackerman could safely perform those duties.

17. Because Mr. Chriswell did not believe that Mr. Ackerman could safely perform the duties of his position, he terminated Mr. Ackerman's employment.

18. Respondent treated Mr. Ackerman as a person with a disability when he terminated Mr. Ackerman's employment.

19. Respondent's termination of Mr. Ackerman's employment constitutes a violation of AS 18.80.220(a).

20. Because of Respondent's termination of Mr. Ackerman's employment, Mr. Ackerman has suffered harm in the form of lost wages and benefits.

**SECOND CAUSE OF ACTION
TERMINATION BECAUSE OF AGE
A VIOLATION OF AS 18.80.220(a)**

21. Paragraphs 1-13 above are realleged and incorporated herein.

22. Edward Ackerman was qualified to perform all of the duties of his position with Respondent.

23. Mr. Ackerman suffered injuries in an automobile accident that rendered him temporarily unable to perform all of the duties of his job with Respondent.

24. Because Mr. Ackerman was temporarily unable to perform all of his job duties, Respondent terminated Mr. Ackerman's employment.

25. At the time Respondent terminated his employment, Mr. Ackerman was forty-three years old.

26. Respondent did not terminate the employment of another employee, Joshua Cox, who was temporarily unable to perform all of the duties of his job.

27. At the time he was temporarily unable to perform all of the duties of his job, Mr. Cox was approximately twenty-one years old and substantially younger than Mr. Ackerman.

28. Respondent's termination of Mr. Ackerman's employment, and not the employment of Mr. Ackerman's substantially younger coworker, constitutes different treatment because of age.

29. Respondent's termination of Mr. Ackerman's employment constitutes a violation of AS 18.80.220(a).

30. Because of Respondent's termination of Mr. Ackerman's employment, Mr. Ackerman has suffered harm in the form of lost wages and benefits.

PRAYER FOR RELIEF

Wherefore the Executive Director asks for the following relief:

1. That the Commission issue an order declaring that Respondent Accurate Import Center LLC violated AS 18.80.220(a) by terminating Edward Ackerman's employment because of disability.
2. That the Commission issue an order declaring that Respondent Accurate Import Center LLC violated AS 18.80.220(a) by terminating Edward Ackerman's employment because of age.
3. That the Commission order Respondent to adopt and disseminate a policy of nondiscrimination under the Alaska Human Rights Law.
4. That the Commission order Respondent to obtain training of at least four hours in length for its managers and supervisors on the provisions of the Alaska Human Rights Law that prohibit discrimination in employment, with an emphasis on the prohibition against discrimination based on disability and age.
5. That the Commission order Respondent to eliminate from Mr. Ackerman's personnel records all documents and entries relating to the facts and circumstances that led to Mr. Ackerman's filing of the above-captioned charge and any of the related events

occurring thereafter.

6. That the Commission order Respondent to refrain from penalizing Mr. Ackerman in any way in future considerations for employment and, if rehired, for transfers, promotions, or upgrading because Mr. Ackerman complained about discrimination or because he filed a complaint with the Commission.

7. That the Commission order Respondent to refrain from advising or informing any other employer or potential employer of Mr. Ackerman of the facts or circumstances involved in this case.

8. That the Commission order Respondent to pay back wages, including any lost benefits, to Mr. Ackerman plus interest at the applicable legal rate, the exact amount of which will be proven at hearing.

9. That the Commission order Respondent to pay the statutory maximum amount of front pay, including benefits, to Mr. Ackerman, the exact amount of which will be proven at hearing.

Dated this 30th day of April 2012 at Anchorage, Alaska.

ALASKA STATE COMMISSION
FOR HUMAN RIGHTS

/s/
Stephen Koteff
Human Rights Advocate
Alaska Bar No. 9407070