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BEFORE THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS

ALASKA STATE COMMISSION FOR)
HUMAN RIGHTS, PAULA M. HALEY,)
EXECUTIVE DIRECTOR, *ex rel.*)
AMORMIO LAPAN,)
Complainant,)
v.)
PEGASUS AVIATION SERVICES, LLC,)
Respondent.)

ASCHR No. J-10-219

ACCUSATION

Paula M. Haley, Executive Director of the Alaska State Commission for Human Rights, *ex rel.* Amormio Lapan, hereby alleges the following against Respondent Pegasus Aviation Services, LLC:

1. Respondent Pegasus Aviation Services, LLC, is an Alaska limited liability corporation that provides aviation support services to various airlines in Alaska.
2. Amormio Lapan was employed by Respondent, from February 3, 2010 to approximately August 19, 2010 as a ramp service agent at the Ted Stevens Anchorage International Airport.
3. During Mr. Lapan's employment with Respondent Mr. Lapan worked exclusively on the night shift, often arriving for work between 10:30 and 11:00 p.m. and leaving between 7:30 and 8:00 A.m.
4. Mr. Lapan suffers from diabetes, a condition which substantially limits one or more of Mr. Lapan's major life activities.

1 5. On or about July 13, 2010, Mr. Lapan's doctor recommended that he no
2 longer work the night shift, and that he transfer to the day shift, to better manage his
3 condition.
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5 6. On or about July 13, 2010, Mr. Lapan submitted a note from his doctor to
6 his supervisor. The note states: "Work modifications as indicated are required for
7 diabetes. [Mr. Lapan] administers insulin and needs a regular schedule for glycemic
8 control. This requires patient to work in the daytime instead of nighttime. Thanks!"
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10 7. On or about July 13, 2010, Mr. Lapan also verbally requested of his
11 supervisor, Terran Williams, that he be allowed to work the day shify as an
12 accommodation for his disability. Mr. Williams told Mr. Lapan that he would have to
13 apply for a day shift position.
14

15 8. Respondent took no action on Mr. Lapan's request to work the day shift
16 for the rest of July 2010. Nevertheless, Respondent hired two other individuals to work
17 the day shift during July 2010.
18

19 9. On August 2, 2010, Respondent finally responded to Mr. Lapan's day shift
20 request. Mr. Lapan was told at that time that there were no day shift openings and that
21 his request to work the day shift was consequently denied.
22

23 10. Mr. Lapan was also told that he would have to continue to work the night
24 shift or his employment would be terminated. Faced with possible termination, Mr.
25 Lapan withdrew his request for an accommodation.
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27 11. Mr. Lapan continued to work the night shift; however, because of his
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disability he was forced to miss a significant amount of work during July and August 2010.

12. Because of his absences, Respondent terminated Mr. Lapan’s employment on August 19, 2010.

**FIRST CAUSE OF ACTION
DISCRIMINATION BECAUSE OF DISABILITY
FAILURE TO PROVIDE REASONABLE ACCOMMODATION
A VIOLATION OF AS 18.80.220(a)**

13. Paragraphs 1-12 above are realleged and incorporated herein.

14. Amomio Lapan was qualified to perform all of the functions of his position with Respondent Pegasus Aviation Services, LLC.

15. Mr. Lapan has a disability as that term is defined by Alaska law.

16. Mr. Lapan asked Respondent to provide him with a reasonable accommodation for his disability.

17. Respondent refused to provide Mr. Lapan with the reasonable accommodation he requested or with any other reasonable accommodation.

18. Respondent’s refusal to provide Mr. Lapan with a reasonable accommodation constitutes a violation of AS 18.80.220(a).

19. Because Respondent refused to provide him with a reasonable accommodation, Mr. Lapan suffered harm in the form of lost wages and benefits.

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

20. Paragraphs 1-12 above are realleged and incorporated herein.

21. Amomio Lapan was qualified to perform all of the functions of his position with Respondent Pegasus Aviation Services, LLC.

22. Mr. Lapan missed a significant amount of work in July and August 2010 because of his disability and because Respondent refused to provide Mr. Lapan with a reasonable accommodation for his disability.

23. Because Mr. Lapan missed work in July and August 2010, Respondent terminated Mr. Lapan's employment.

24. Respondent's termination of Mr. Lapan's employment constitutes a violation of AS 18.80.220(a).

25. Because of Respondent's termination of Mr. Lapan's employment, Mr. Lapan 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 Pegasus Aviation Services, LLC violated AS 18.80.220(a) by discriminating against Amormio Lapan because of disability by refusing to provide Mr. Lapan with a reasonable accommodation.

2. That the Commission issue an order declaring that Respondent Pegasus

1 Aviation Services, LLC violated AS 18.80.220(a) by terminating Amormio Lapan's
2 employment because of disability.

3
4 3. That the Commission order Respondent to adopt and disseminate a policy
5 of nondiscrimination under the Alaska Human Rights Law.

6
7 4. That the Commission order Respondent to obtain training of at least four
8 hours in length for its managers and supervisors on the provisions of the Alaska Human
9 Rights Law that prohibit discrimination in employment, with an emphasis on the prohibition
10 against discrimination based on disability and the requirement to provide reasonable
11 accommodations to persons with disabilities.

12
13 5. That the Commission order Respondent to eliminate from Mr. Lapan's
14 personnel records all documents and entries relating to the facts and circumstances that led
15 to Mr. Lapan's filing of the above-captioned charge and any of the related events occurring
16 thereafter.

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18 6. That the Commission order Respondent to refrain from penalizing Mr. Lapan
19 in any way in future considerations for employment and, if rehired, for transfers,
20 promotions, or upgrading because Mr. Lapan filed a complaint with the Commission.

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

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

Dated this 31st day of January 2014 at Anchorage, Alaska.

ALASKA STATE COMMISSION
FOR HUMAN RIGHTS

signature redacted

Stephen Koteff
Human Rights Advocate
Alaska Bar No. 9407070