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BEFORE THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS
ON REFERRAL TO THE OFFICE OF ADMINISTRATIVE HEARINGS

ALASKA STATE COMMISSION FOR)
HUMAN RIGHTS, PAULA M.)
HALEY, EXECUTIVE DIRECTOR,)
ex rel. CHRISTINE SMITH,)

Complainant,)

v.)

ASCHR No. J-08-173

INDUSTRIAL ELECTRIC)
CONTRACTING, INC.,)

Respondent.)

ACCUSATION

Complainant, Paul M. Haley, Director of the Alaska State Commission for Human Rights, ex el. Christine Smith, submits the following Accusation against respondent Industrial Electric Contracting, Inc.

1. Christine Smith is a person aggrieved by discriminatory conduct prohibited by AS 18.80.220.

2. At all times relevant herein, and for the purposes of the Accusation. Respondent. Industrial Electric Contracting, Inc. was and remains an employer as that term appears in AS 18.80.220 and as defined by AS 18.80.3004(4).

3. Christine Smith is a person with a disability within the meaning of AS 18.80 because: (1) Ms. Smith was born with no left arm below the elbow and a short

1 right arm with no elbow; and (2) because Respondent regarded Ms. Smith as being
2 disabled.

3
4 4. In July of 2008, Respondent placed an ad with the Fairbanks
5 Department of Labor Job Service for a job-share bookkeeping position.

6
7 5. On July 15, 2008 Ms. Smith replied to Respondent's job posting for
8 the position with a resume and cover letter.

9
10 6. Ms. Smith was qualified for the bookkeeping position by virtue of her
11 previous experience working as a bookkeeper and her typing speed of 30-40 words
12 per minute.

13
14 7. Respondent interviewed Ms. Smith for the position on July 18, 2008
15 and submitted her qualifications and typing speed of 30-40 words per minute.

16
17 8. Respondent also interviewed at least one other applicant for the
18 position, who had a comparable typing speed to Ms. Smith's.

19
20 9. Subsequent to interviews, Respondent offered the job to another
21 candidate who had a comparable typing speed to complainant but who was not
22 disabled; the other applicant declined to accept the job offer.

23
24 10. On July 28, 2008, Respondent explicitly rejected Ms. Smith via e-
25 mail for the position based on her physical disability, stating, " I know you could
26 probably do this job except for a few built-in challenges we have in our operation,

27 **Accusation**

28 *ASCHR, Paula M. Haley, Executive Director, ex rel. Christine Smith v. Industrial
Electric Contracting, Inc., ASCHR No. J-08-173*

1 beginning with our office layout and equipment - none of which we are able to
2 change or modify at this time.”

3
4 11. Subsequent to rejecting Ms. Smith, Respondent hired another
5 candidate who was not physically disabled.

6 **FIRST CAUSE OF ACTION – DISABILITY DISCRIMINATION**

7
8 Paragraphs 1 through 11 are incorporated herein as if set forth in full.

9 12. Respondent violated AS 18.80.220(a)(1) when it refused to hire Ms.
10 Smith based on her physical disability and instead hired a candidate who was not
11 physically disabled.

12
13 13. Ms. Smith could perform the essential functions of the position with or
14 without a reasonable accommodation based on her previous book-keeping experience
15 and typing speed.

16
17 14. At no time did Ms. Smith request a reasonable accommodation from
18 Respondent concerning the office layout, equipment, or any other condition of
19 employment.

20
21 15. As a result of Respondent’s refusal to hire Ms. Smith, Ms. Smith
22 suffered a loss of wages and benefits from July 28, 2008 until she obtained another
23 job, in an amount to be proven at hearing.

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26 **Accusation**

27 *ASCHR, Paula M. Haley, Executive Director, ex rel. Christine Smith v. Industrial*
28 *Electric Contracting, Inc., ASCHR No. J-08-173*

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PRAYER FOR RELIEF

Wherefore Complainant asks for the following relief:

1. That the Commission issue an order declaring that Respondent violated AS 18.80.220(a)(1) by refusal to hire Christine Smith based on her disability.

2. That the Commission issue an order directing Respondent to adopt and disseminate a policy of nondiscrimination under the Alaska Human Rights Law that includes, but is not limited to, a policy prohibiting discrimination because of disability.

3. That the Commission issue an order directing Respondent to require training on the provisions of the Alaska Human Rights Law, with specific emphasis on the provisions prohibiting discrimination based on disability.

4. That the Commission issue and order directing Respondent to provide “back pay” to complainant for the period beginning with the date of the alleged discrimination, July 28, 2008, and ending with the date the Commission approves this agreement.

5. That the Commission issue and order directing Respondent to provide “front pay” to complainant for the period beginning with the date of the Commission’s decision to the statutory maximum.

Accusation

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Respectfully submitted this _____ day of April, 2009.

ALASKA STATE COMMISSION
FOR HUMAN RIGHTS

By: _____ /s/
Caitlin Shortell
Human Rights Advocate

Accusation

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