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City of Chicago
COMMISSION ON HUMAN RELATIONS
500 N. Peshtigo Court, 6th Floor
Chicago, IL 60611
(312) 744-4111 [Voice] / (312) 744-1088 [TDD]

IN THE MATTER OF

Windy Pearson
COMPLAINANT,
AND

NJW Office Personnel/Williams
RESPONDENT.

CASE NO. 91-E-126

ORDER

TO: Ariel Weissberg
Weissberg & Associates
53 W. Jackson, Ste. 1025
Chicago, IL 60604

Windy Pearson
2530 N. Campbell
Chicago, IL 60647

YOU ARE HEREBY NOTIFIED that the Chicago Commission on Human Relations has issued a ruling in favor of the Complainant(s)/Respondent(s) in the above-captioned matter on September 16, 1992. The findings of fact and specific terms of the ruling are enclosed herewith.

Pursuant to Section 250.100 of the 'Rules and Regulations Governing the Chicago Human Rights Ordinance, the Chicago Fair Housing Ordinance, and the Chicago Commission on Human Relations Enabling Ordinance,' you may file a 'Request for Review' with the Commission within 30 days. Request for Review forms are available at the Commission's office. Execution of decision shall occur no later than 31 days after the date of a Final Order as defined in part 100(14) of the Regulations.

CHICAGO COMMISSION ON HUMAN RELATIONS

Date: September 21, 1992

CLARENCE N. WOOD
Chair/Commissioner

HRU Form 16
Rev. 05-26-92

CITY OF CHICAGO
COMMISSION ON HUMAN RELATIONS
500 N. PESHTIGO COURT, 6TH FLOOR
CHICAGO, ILLINOIS 60611

IN THE MATTER OF:	)	
	)	
WINDY PEARSON,	)	
	)	
Complainant,	)	Case No. 91-E-126
	)	
and	)	
	)	
NJW OFFICE PERSONNEL SERVICES, INC., and NORMA J. WILLIAMS,	)	
	)	
Respondents.	)	

FINDINGS OF FACT AND CONCLUSIONS OF LAW

INTRODUCTION

This case involves a claim by complainant Windy Pearson that she was fired from her employment with respondent NJW Office Personnel Services, Inc. because she is a lesbian.

A hearing was held in this case on May 26, 1992. Complainant appeared without counsel, while respondents were represented by counsel. Based on the matters presented at the hearing and the recommended findings of the hearing officer, the Commission finds in favor of complainant Windy Pearson and makes the following findings and conclusions of law.

FINDINGS OF FACT

1. Respondent NJW Office Personnel Services, Inc. is a small business engaged in providing temporary employees to businesses in the Chicago area. Norma J. Williams is the owner and president of NJW Office Personnel Services, Inc. (Tr. 294.)

2. Complainant Windy Pearson worked at NJW Office Personnel Services, Inc. starting on June 3, 1991. Near the end of July, 1991 Ms. Pearson was asked by Ms. Williams to take a demotion. A few days later Ms. Pearson was fired.

3. On July 26, 1991, shortly before she was fired and after she was told she would be demoted, Windy Pearson filed a charge of discrimination with the Chicago Commission on Human Relations. This charge, in which Ms. Pearson complained that she was being demoted and was subject to harassment because of her sexual orientation, provides an effective basis to allow Ms. Pearson to litigate her discharge, which took place shortly after her charge was filed. See Brown v. City of Chicago Department of Aviation, CCHR No. 90-E-82 (6/17/92), at 27-31; Malhotra v. Cotter & Co., 885 F.2d 1305, 1312 (7th Cir. 1989); Sosa v. Hiraoka, 920 F.2d 1451, 1456-58 (9th Cir. 1990). Cf. §210.140(c), CCHR Rules and Regulations (as amended and effective January 1, 1992).

4. NJW Office Personnel Services, Inc. is marketed as an "upscale" temporary agency, providing to employers temporary workers who have a high degree of skill and have professional mannerisms, demeanor, and dress. (Tr. 293.) NJW's clients include, for example, Amoco Corporation, AT&T, the Chicago Tribune, the University of Chicago, and Blue Cross/Blue Shield. (Resps.' exh. 7.) It has gross sales of approximately $2 million annually. (Tr. 293.)

5. The owner, Norma J. Williams, is very concerned about the appearance of her employees. She testified, "I am a stickler, I

have a pet peeve for appearance.... I'm just -- I'm not even flexible with that." (Tr. 300.) Ms. Williams, who is African-American, is a high school dropout (tr. 292) who started her business working from a studio apartment. (Tr. 300.) In these circumstances, she said:

> I knew that I had to have a professional looking staff. I mean I knew that I had to.... [W]e had to look like the kind of temporaries that we would send to our clients.

(Tr. 300.) Kadi Sisay, a woman who consults on personnel matters for NJW, testified that "dress is a primary concern" of Ms. Williams. (Tr. 207.) Ms. Williams, for instance, has asked Ms. Sisay not to wear certain types of clothes to the office, including, for example, long dangling earrings. (Tr. 207-08.) Complainant Windy Pearson testified that Norma Williams had talked about proper dress and was "very concerned" about the image that would be communicated to clients. (Tr. 104, 105. See also tr. 188.)

6. In general, throughout the hearing, Ms. Williams made it clear that giving her clients what they want is a paramount interest for her. (See, e.g., tr. 370 and 376-77.)

7. It is quite clear that Ms. Williams is not repulsed by or antagonistic to homosexuals in her personal life, or as employees or co-workers. As discussed below, problems arose between Ms. Williams and complainant Pearson in part because they had met or seen each other in a social setting involving homosexuals, and had friends or acquaintances in common who are homosexual. During the hearing, Ms. Williams was not asked about and did not testify about

her personal life, or sexual orientation. But Ms. Williams made it clear that she is, or feels herself to be, familiar with a social milieu involving homosexuals.

8. Ms. Williams testified that she feels she is not prejudiced against homosexuals (tr. 351) and she denied terminating Ms. Pearson because of her sexual orientation. (Tr. 354. And see tr. 351.) She has had homosexuals work for her without problem. (Tr. 351.) Ms. Williams says that she knows that they are homosexuals simply because it is obvious to her. "I mean I know. I have friends that are gay and I -- you know, when you know people that are in the life, you know." (Tr. 351.) Ms. Williams testified that her closest friend, the godmother of her children, is gay. (Tr. 375.)

9. Nonetheless, Ms. Williams has two problems with homosexuals as employees. First, as described below, Ms. Williams feared Ms. Pearson, a homosexual, because Ms. Pearson, as a result of her social relationships with other homosexuals, knew something about Ms. Williams' association with homosexual friends. That is, Ms. Williams feared that Windy Pearson might publicly reveal Ms. Williams' association with homosexuals and could exercise power over Ms. Williams (or Ms. Pearson felt she could exercise power) because of this potential threat.

10. Second, Ms. Williams has problems with employees who dress or act in a manner characteristically or stereotypically associated with homosexuals, if the behavior or dress of these employees would displease, alienate, or offend a client. Ms.

Williams does not feel that all homosexual employees will offend all clients. She feels that some clients, in a warehouse setting, for example, do not care how the employee looks. They just want an employee to do the job. (Tr. 377.) And Ms. Williams testified that while she feels there are people who, to her, are recognizably homosexual, they nevertheless may look and act in a fashion that she feels to be suitably professional. (Tr. 374-75.) They would not be recognized by Ms. Williams' corporate clients as homosexuals. (Tr. 375.) "How would they [the clients] know?," Ms. Williams asked. (Tr. 375.) Ms. Williams is concerned, however, that she not send to a client an employee who sticks out like a sore thumb. (Tr. 376.) Ms. Williams' view is that if a company needs a receptionist or an executive secretary, for example, she cannot send out a woman "who has on all men clothes, you know, a big watch on the opposite arm, you know, male boots or male shoes that lace up...." (Tr. 376.) Ms. Williams' experience is that some companies will not accept male secretaries, for example. (Tr. 376.) These companies do not want to be sued, so will not make their preferences explicit. But if they get an employee whose appearance they do not like, she says, "What they do is end the assignment two days early and won't ever call you again." (Tr. 377.) Ms. Williams views it to be her role to be "sensitive to pick up on those nuances" and send the client the type of employee the client wants. (Tr. 377.)

11. Complainant Windy Pearson is a 32-year old woman. (Tr. 24.) Prior to working at NJW, Ms. Pearson had worked at a variety

of positions in data entry, data entry supervision, and insurance claims work. (Tr. 88-91; see resps.' exh. 1.)

12. Windy Pearson and Norma Williams began talking about Ms. Pearson going to work for NJW Office Personnel Services, Inc. as a result of running into each other at a series of conferences on minority businesses. (Tr. 24, 26-27, 296-98.) (Both Ms. Pearson and Ms. Williams are African-American.) Ms. Pearson approached Ms. Williams at one of those conferences in 1991 about getting a job with NJW. (Tr. 24, 298-300.)[1]

13. Kadi Sisay, a personnel consultant, was involved in the decision to hire Ms. Pearson. (Tr. 204-05.) Ms. Williams told Ms. Sisay that she had seen Ms. Pearson for several years at conferences, she found her to be impressive and assertive, and she wanted Ms. Sisay to interview Ms. Pearson. (Tr. 206-07.) Ms. Sisay interviewed Ms. Pearson and then gave a favorable report to Ms. Williams. Ms. Pearson's sexual orientation did not come up in these conversations. (Tr. 210-12.)

14. Ms. Williams did not know it when she first began planning to hire Ms. Pearson out. Ms. Pearson knew Ms. Williams, or at least recognized her, from having seen her before the minority business conferences. Ms. Pearson testified that she knew

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[1] One thing that occurred during these discussions was that Ms. Williams said to Ms. Pearson that she had never seen Ms. Pearson wearing a dress. The next day, Ms. Pearson came back wearing a dress or a woman's suit, "proving" that she had such clothes and would wear them. (Tr. 30-31.) According to Ms. Williams, when Ms. Pearson appeared in a dress or a woman's suit, whichever it was, "that let me know that, you know, she did have that kind of clothing and, you know, she could fit that image...." (Tr. 301. See also tr. 207, 299-300.)

Ms. Williams "based on additional friends who were also lesbians." (Tr. 27. See also tr. 296.) This came out when, in the course of a conversation between Windy Pearson and Norma Williams, before Ms. Pearson was hired (tr. 35), Ms. Williams said to Ms. Pearson that she looked familiar. (Tr. 313.) Ms. Pearson responded that she knew Ms. Williams' friend, "Pinky" (tr. 47), or that they had a friend in common who knew "Pinky," Ms. Williams' best friend. (Tr. 314.) Ms. Pearson said she was gay and asked if Ms. Williams had a problem with that. Ms. Williams said she did not. (Tr. 314.) Ms. Williams said it would not be a problem as long as it did not affect Ms. Pearson's job performance. (Tr. 35.) Ms. Pearson made it clear that they had a friend in common who was gay (tr. 314) and Ms. Williams felt that Ms. Pearson was intimating that Ms. Williams herself was gay. (Tr. 314-15.) According to Ms. Pearson:

> I just told her that I knew Pinky, you know, and that I knew a couple of other people that she knew.... And I was just making her aware of the fact that I knew of her involvement with Pinky.

(Tr. 47. See also tr. 107.) Ms. Pearson says that telling Ms. Williams this "was my way of letting Ms. Williams know or trying to make Ms. Williams remember me back from 1983, `84 and `85."[2] Ms. Williams closed the conversation by saying, "[T]hat's not something I care to discuss. It's not something my staff is aware of." (Tr. 314 See also tr. 47-48 and 51.)

15. Ms. Williams was emotionally shocked as a consequence of

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[2] Respondent argued that Ms. Pearson's actions in this respect, letting Ms. Williams know that she knew something personal and private about Ms. Williams, constituted a kind of blackmail and a form of improper sexual harassment. (Tr. 194-95.)

this conversation. (Id.)

16. Ms. Williams felt a need to talk to someone about what had happened, so she called Ms. Sisay into her office for a private, closed-door conversation. Ms. Williams did not tell Ms. Sisay everything that had happened. As Ms. Sisay recalls the conversation, Ms. Williams told Ms. Sisay that she thought Ms. Pearson was gay -- she recognized her from some previous social setting. (Tr. 214.) Ms. Williams said she wondered how Ms. Pearson being gay would affect the rest of the staff. (Tr. 215.) Ms. Sisay told Ms. Williams that sexual preference was not important, they needed to just focus on Ms. Pearson's skills and if she felt uncomfortable she should discuss the matter with Ms. Pearson. (Tr. 214.) Ms. Sisay viewed it as part of her role to remind Ms. Williams of her legal obligations. (Tr. 216.) Ms. Sisay testified that it was her sense that Ms. Williams:

> was uncomfortable because she and Windy had been in a similar social setting.... Norma really did not want that to be public.... What Norma shared with me was that she as concerned about how Windy's sexual preference would be viewed by her staff.

(Tr. 216.)

17. Ms. Williams testified that she talked to Ms. Sisay at that point because she felt threatened and wanted someone to talk to. Ms. Williams testified:

> The fact that she [Windy Pearson] would even share something like that with me, which in my opinion was very personal when I didn't I give her a right didn't have anything to do with her job [sic]. Personally I felt it was a way of holding some shit over my head. This is what I know about you. I know this about you so I want you to know this. And it was at that moment for a minute intimidating to the point that I had to share it with the

Human Resource management consultant.

(Tr. 317.) Ms. Williams says that she was extremely anxious about the threat that Ms. Pearson posed to her, but decided to go ahead and hire Ms. Pearson because of her potential value to the company. (Tr. 318.)

18. After those discussions and interviews, Ms. Pearson was hired by NJW to work as a "service coordinator," responsible for recruiting, placing, and monitoring the work of temporary employees with the company's clients. (See resps.' exh. 2.) She was hired at a salary of $22,500.00 per year. (Tr. 91.) She had no employee benefits and would not have received any until she completed her probationary period. She was terminated three days before completing probation. (Tr. 92.)

19. Ms. Pearson made a good start as an employee of NJW. When she started, the other service coordinator (Laverne Hall) was unavailable for about four days. Ms. Pearson, new on the job, had to perform the work of two people and did it well. (Tr. 59, 150-53.) When Ms. Hall returned to work, Norma Williams told her that Ms. Pearson had done an excellent job in Ms. Hall's absence and had shown a good, aggressive attitude with respect to sales. (Tr. 153.)

20. Ms. Pearson also did a good job when she initially began working on an account with AT&T. Ms. Pearson worked long hours to monitor the AT&T account, sometimes working as late as 9:00 p.m. at night. (Tr. 66-67, 142. See also tr. 172-73.) Norma Williams praised Ms. Pearson's handling of the account in the first week she

had it, complimenting Ms. Pearson in particular for going on site after work hours to check on the temporaries working there. (Tr. 325.)

21. But Ms. Williams felt significant dissatisfaction with Ms. Pearson as an employee almost immediately and throughout the two months that Ms. Pearson worked for NJW.

22. First, Ms. Williams found Ms. Pearson to be too aggressive and too loud in her dealings with other people (tr. 333-34), and generally difficult and unpleasant in her dealings with staff members in particular. On the phone, if Ms. Pearson disagreed with a client, she could be heard being "very loud, very dictatorial." (Tr. 334.) Ms. Pearson engaged in two arguments with members of the accounting staff, acting in an insistent, domineering fashion, and reduced a payroll clerk to tears. (Tr. 336-40, 273-74, 109, 220.) Ms. Pearson's response to this at the hearing, in part, was to say, "I think that we are all entitled to have periodically an attitude." (Tr. 382.)

23. Second, there were significant problems with the AT&T account that Ms. Pearson handled. (Tr. 324, et seq.) Respondents introduced evaluations from AT&T showing that the client was dissatisfied with a number of employees that Ms. Pearson placed with it. (See resps.' exh. 5.) Ms. Williams testified that she showed these poor evaluations to Ms. Pearson, asked her about them, and Ms. Pearson responded defensively, with excuses. (Tr. 327-28.) Ms. Williams testified that the client was quite dissatisfied with the company's performance, saying it had never previously received

such a bad group of temporary employees from NJW. (Tr. 331.)[3]

24. Ms. Williams also claims that she became dissatisfied with Ms. Pearson's appearance and dress, which Ms. Williams claims changed drastically after Ms. Pearson was hired. (Tr. 319.) Ms. Williams recalled an occasion when Ms. Pearson came to work with a men's shirt unbuttoned to an inappropriate degree, exposing her cleavage. (Tr. 319-20.) According to Ms. Williams, Ms. Pearson was not setting a proper example for temporaries and customers. "She has to be the epitome of what we represent, which is an upscale temporary help service firm." (Tr. 320.) Ms. Williams claims that she admonished Ms. Pearson about her appearance on that occasion, commenting on Ms. Pearson's open blouse and unkempt hair. She again noticed problems with Ms. Pearson's appearance about a week later, when Ms. Pearson's hair was unkempt and her clothes were wrinkled. (Tr. 321-22.) She admonished Ms. Pearson again, for the second time. After that, Ms. Williams claims, "I just let it go even when she came in looking horrendous." (Tr. 324.) Consistent with this testimony, Kadi Sisay testified that Ms. Williams expressed dissatisfaction with Ms. Pearson on at least two

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[3] Ms. Pearson testified that there were problems with only six of the people she placed with the AT&T account, a number she says is relatively small considering that she placed 18 to 20 people on this job. (Tr. 60, 119.) She argues that the people she placed that did not work out had problems that she could not have known about, or were recommended by Ms. Williams herself, through her former secretary. (Tr. 62, 118. And see tr. 135-41 and 362-64.) Ms. Pearson claims that Ms. Williams said she wanted two of the unsatisfactory employees placed because they were white and it would improve the company's image with the client. (Tr. 64.) And she testified that the client itself interviewed and trained the temporary employees that ultimately were found to be unsatisfactory. (Tr. 131.)

or three occasions. (Tr. 223.) One involved a time when Ms. Pearson reported to work wearing a blouse that Ms. Williams felt was unbuttoned too far, in an inappropriate manner, Ms. Sisay testified. (Tr. 223.) Ms. Pearson denied that she ever had worn a blouse open to an inappropriate degree (tr. 381), although she admitted that Ms. Williams did speak to her once about wearing a low-cut blouse. (Tr. 382.)[4]

25. Ms. Pearson and Ms. Williams were also involved in a dispute about sending out a homosexual employee to work at a data entry job for the Chicago Park District. Ms. Pearson and the other service coordinator, Laverne Hall, argued with Ms. Williams about placing a particular employee named Debra on the job. This employee had a good record and good references (tr. 82), but Ms. Pearson testified that Ms. Williams objected that the employee was "obviously gay" and "I don't want that image there.... I don't care how good she is." (Tr. 79.)

26. Ms. Williams recalls that she told Ms. Pearson and Ms. Hall that there were problems with that employee. The employee had

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[4] Ms. Pearson argued at the hearing that complaints about her performance were drummed up by respondent after she filed her charge, as a pretext to justify her discharge. She pointed out that during her employment she received no written evaluations and no written reprimands or warnings regarding her performance. (Tr. 141.) Ms. Pearson claims that she also received no verbal warnings or reprimands or cautions about the quality of her performance. (Tr. 66.) However, Ms. Pearson did receive copies of the unfavorable evaluations from AT&T regarding some of the employees she had placed on that account. (Tr. 61, 126.) Ms. Pearson also points out that when she was let go she was not told it was because of poor performance. Rather, she was told by Ms. Williams that she was laid off because of the company's financial problems. (Tr. 69, 71.)

a roommate who came to the office in an hysterical fashion one day and "told us she did not like the way we were handling her lover" and complained about the amount they were paying Debra. (Tr. 348.) Ms. Williams said she had to take the roommate into her office and calm her down. She told Ms. Pearson and Ms. Hall this so they would understand that if they hired Debra they were going to have problems and to illustrate the type of problems they were going to have. (Tr. 349.) Ms. Williams also testified that she objected to the way Debra dressed. "[S]he wore men's shoe's or men's boots and she wore men's pants and she wore men's clothes." (Tr. 350.) Ms. Williams thought that dress would be offensive to the client, the Chicago Park District. While it was a data entry job, Ms. Williams said, the temporary was being sent to work for the financial manager who was responsible for purchasing NJW's services. (Tr. 350.) Ms. Pearson, in response, testified that the job did not involve working for the financial manager and in fact involved working on a night shift. (Tr. 380-81.) Eventually, Ms. Pearson and Laverne Hall convinced Ms. Williams to place the employee, but were instructed to advise her how to dress (tr. 80), telling her "to put on a suit or something" that would not show whether or not she was gay. (Tr. 83-84.)

27. These events took place against a background of severe financial troubles for the NJW company. In about early July the company's accounting manager, Lalaine Alvarez, reported to Ms. Williams that the company was losing money (tr. 262) and needed sales right away to survive its current crisis. (Tr. 263.) Ms.

Alvarez also reported that Ms. Pearson's accounts were not doing nearly enough business to justify a service coordinator covering those accounts. (Tr. 263.)

28. NJW was financially distressed in July, 1991. (Tr. 266, et seq.; resps.' exh. 10; tr. 271.) Its cash flow is always tight. At the time of the hearing it was overdrawn at its bank account and had been overdrawn for at least a year, including during the time when Ms. Pearson worked for NJW. (Tr. 269.) NJW owes money to the Internal Revenue Service and the Illinois Department of Employment Security. (Tr. 269.) A tax lien has been filed against NJW by both of these taxing authorities and NJW is paying the IRS pursuant to an installment agreement. (Tr. 269.) Currently about $50,000.00 to $60,000.00 is owed to the IRS. In July, 1991 the balance owed to the IRS was approximately $87,000.00. NJW has also worked out an installment plan to pay its landlord. (Tr. 271.)

29. Accounts had been divided among Ms. Pearson and Ms. Hall so that Ms. Pearson primarily was given accounts that needed to be "reactivated." (Tr. 250-51, 255.) After this distribution of clients, company records (prepared after Ms. Pearson's termination) showed that Ms. Pearson's accounts were responsible in June and July for sales equal to only a small fraction of the business done by the accounts Ms. Hall covered. (Tr. 256-261; resps.' exh. 9.)

30. Ms. Williams felt she needed to terminate an employee but she did not want to fire Ms. Pearson because she had just hired her. Ms. Williams' proposed solution to this dilemma was to move Ms. Pearson into a sales job, cutting her salary but at least

letting her keep a job. (Tr. 226-27, 266, 345, 373.)

31. Ms. Williams then called Ms. Pearson into a meeting and told her that she wanted Ms. Pearson to take a demotion to a salesperson's position, with a $3,000.00 salary cut. (Tr. 43.) Ms. Williams brought up the arguments Ms. Pearson had had with the accounting staff. (Tr. 56-57.) Ms. Williams also said that other staff members had approached Ms. Williams to ask about whether Ms. Pearson was gay. (Tr. 42, 108-09.) Ms. Williams said that the other employees said Ms. Pearson's sexual orientation caused problems for them (tr. 42); and that her "dealings with customers on the telephone was troublesome because [Ms. Pearson's] voice was heavy, that they could not determine whether [she] was a guy or a girl." (Tr. 43.)[5] In this conversation, according to Ms. Pearson, she told Ms. Williams that her sexual preferences were no one's business but her own and her family's; that she was not obviously gay; and if she had a chance to meet her clients (as opposed to simply talking on the phone to them) she would have a good rapport with them. (Tr. 54.) According to Ms. Pearson, Ms. Williams responded that her concern was "NJW and NJW's image and how we reflect the business community." (Tr. 55.) Ms. Williams told Ms. Pearson that if she repeated what Ms. Williams had said, Ms. Williams would deny having said it. (Tr. 44.)

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[5] The other service coordinator, Laverne Hall, also testified that Ms. Williams had made remarks about Ms. Pearson's voice being too "heavy." According to Ms. Hall, Ms. Williams said she was dividing clients in a particular way between Ms. Pearson and Ms. Hall because Ms. Williams felt that Ms. Pearson's voice was too heavy and major corporate clients would not be comfortable with her. (Tr. 162.)

> She also went on to say that if I at any point stated that she was gay or that she had had any affiliation with women that she would directly deny that and no one would believe me anyway.

(Tr. 45. And see tr. 53.) At the end of this meeting, according to Ms. Williams, Ms. Pearson "kind of stormed out of my office." (Tr. 341.)

32. The job that was to be offered to Ms. Pearson was not clear at the time. It was supposed to be a sales job; it would involve a cut in salary; and Ms. Pearson would receive commissions of some kind. Ms. Williams said they would put a position description in writing and then Ms. Pearson could decide whether or not she wanted to take the position. (Tr. 123-24.) Ms. Williams testified that the sales job would have entailed a $3,000.00 cut in salary but also would have included the opportunity to earn commissions conceivably as high as $5,700.00 per year. (Tr. 354.)

33. In any event, Ms. Pearson's reaction to the offer of a demotion, and their conversation, was not what Ms. Williams was looking for. Ms. Pearson's immediate reaction (without Ms.

Williams' knowledge) was to file a charge with the Human Rights Commission.[6] According to Ms. Williams, after the demotion discussion, Ms. Pearson displayed a nasty deposition and interacted terribly with other employees. (Tr. 372; see also tr. 341 and 356.) Ms. Williams then told Ms. Pearson, on July 30, that she was being laid off because the company could not afford to continue paying her. (Tr. 69, 71.)

34. When Ms. Williams decided to fire Ms. Pearson, she was significantly influenced by Ms. Pearson's actions in telling her that Ms. Pearson knew a mutual friend who was gay. (Tr. 341-43.) Ms. Williams testified that she was fed up with the complaints about Ms. Pearson, her physical appearance, the confrontations, and the fact that sales were going down. With this background, Ms. Williams testified, "I really thought about the conversation she brought to me. You know, `Hey, I know you from where.'" (Tr. 341.) Ms. Williams testified that she felt she had tried hard to work with Ms. Pearson and calm her down, but that Ms. Pearson took a nonchalant attitude in responding to the problems with the AT&T account, in particular. (Tr. 342.)

> I thought about the fact that I didn't know what she would do or what she would -- I didn't know.... I didn't feel comfortable with Windy.

(Tr. 342-43.) Ms. Williams testified that her reaction was not because Ms. Pearson was gay. (Id.) But she felt uncomfortable

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[6] There is no evidence that Ms. Pearson's charge was received by NJW, or that NJW knew about it, before Ms. Pearson was fired. Ms. Pearson has not alleged that she was fired in retaliation for filing a charge with the Commission.

with Ms. Pearson because of the feeling that Ms. Pearson held something over her and was emboldened by it. Ms. Williams testified:

> I feel like anytime you are bold enough to confront your boss and tell your boss that you know some dirt on them, if you want to consider it dirt, there is just no limit to what else you may or may not say to somebody. I mean, she had only been there two months and already it was crazy at the company with everybody.

(Tr. 343-44.) Ms. Williams testified to a desperate, intense desire to keep control of the business she has built up. She was determined that "I'm not going to let anybody come in and run their show." (Tr. 375. See also tr. 368.)

35. In the fall of 1991, after Ms. Pearson was fired, service coordinator Laverne Hall engaged in a conversation with Norma Williams. This conversation was sparked in some way by the widely-publicized Senate hearings over the nomination of Clarence Thomas for appointment to the U.S. Supreme Court, which included testimony by a former aide, Anita Hill, that Judge Thomas had used lewd and suggestive language in her presence. Somehow in their conversation about the Thomas-Hill hearings, Ms. Hall says, she made the comment that she did not wear her hair short so she would not be mistaken for a guy or for being gay "or that type of thing. And Norma made the comment, and her words were, `That's why I got rid of Windy because people could not tell what she was.'" (Tr. 183.)

36. Since her termination, Ms. Pearson has actively sought other employment but has not been employed. (Tr. 92-93.) She has had approximately 40-50 interviews in the past several months and usually has sent out about ten to 20 resumes every week or every

two weeks. (Tr. 93.)

37. After Ms. Pearson was terminated, she was not replaced. NJW functioned with only one service coordinator, and for some period functioned with no one in that position, leaving Ms. Williams alone to handle those duties. (Tr. 200-03, 233-34, 345.)

CONCLUSIONS OF LAW

38. Homosexuals in the United States may be subject to social disfavor, discrimination, and violence. See Case, Repealable Rights: Municipal Civil Rights Protection for Lesbians and Gays, 7 LAW & INEQUALITY 441 (1989), at 442 and nn. 8-10. Homosexual acts are subject to criminal penalties in roughly one-half of the states. See Bowers v. Hardwick, 478 U.S. 186, 193-94, 106 S.Ct. 2841, 2845, 92 L.Ed.2d 140 (1986). Courts routinely refer to "the general public opprobrium toward homosexuality." Padula v. Webster, 822 F.2d 97, 104 (D.C. Cir. 1987). Objecting to the denial of certiorari in a case brought by a high school counselor fired because she revealed her bisexuality, Justice Brennan wrote:

> [H]omosexuals constitute a significant and insular minority of this country's population. Because of the immediate and severe opprobrium often manifested against homosexuals once so identified publicly, members of this group are particularly powerless to pursue their rights openly in the political arena. Moreover, homosexuals have historically been the object of pernicious and sustained hostility, and it is fair to say that discrimination against homosexuals is "likely...to reflect deep-seated prejudice rather than rationality."

Rowland v. Mad River Local School Dist., 470 U.S. 1009, 1014, 105 S.Ct. 1373, 1377, 84 L.Ed.2d 392 (1985) (Brennan, J., dissenting; citation omitted), denying cert. to 730 F.2d 444 (6th Cir. 1984).

See also Watkins v. U.S. Army, 875 F.2d 699, 724 (9th Cir. 1989) (Norris, J., concurring), cert. denied, -- U.S. --, 111 S.Ct. 384, 112 L.Ed.2d 395 (1990).

39. In most jurisdictions, a homosexual who is subject to discrimination in employment, housing, or other aspects of life will have no legal recourse. The United States Congress repeatedly has refused to pass legislation prohibiting discrimination against homosexuals.[7] Title VII of the 1964 Civil Rights Act's prohibition of discrimination on the basis of sex has been consistently interpreted to not include a prohibition against discrimination on the basis of homosexuality. See note, Sex[ual Orientation] and Title VII, 91 COLUM.L.REV. 1158 (1991). The United States federal courts have refused to describe as suspect classification by homosexuality, as classification by race, alienage, or national

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[7] As of 1989, according to one author, Congress had failed to pass the following legislation that would have prohibited discrimination on the basis of sexual orientation in areas such as housing and employment: H.R. 166, 94th Cong., 1st Sess. (1975); H.R. 5452, 94th Cong., 1st Sess. (1975); H.R. 10389, 94th Cong., 1st Sess. (1975); H.R. 13019, 94th Cong., 2d Sess. (1976); H.R. 13928, 94th Cong., 2d Sess (1976); H.R. 451, 95th Cong., 1st Sess. (1977); H.R. 2998, 95th Cong., 1st Sess. (1977); H.R. 4794, 95th Cong., 1st Sess. (1977); H.R. 5239, 95th Cong., 1st Sess. (1977); H.R. 7775, 95th Cong., 1st Sess. (1977); H.R. 10575, 95th Cong., 2d Sess. (1978); H.R. 12149, 95th Cong., 2d Sess. (1978); H.R. 2074, 96th Cong., 1st Sess. (1979); S. 2081, 96th Cong., 1st Sess. (1979); H.R. 1454, 97th Cong., 1st Sess. (1981); H.R. 3371, 97th Cong., 1st Sess. (1981); S. 1708, 97th Cong. 1st Sess. (1981); H.R. 2624, 98th Cong., 1st Sess. (1983); S. 430, 98th Cong., 1st Sess. (1983); H.R. 230, 99th Cong., 1st Sess. (1985); S. 1432, 99th Cong., 1st Sess. (1985); S. 464, 100th Cong., 1st Sess. (1987); H.R. 709, 100th Cong., 1st Sess (1987); S. 2109, 100th Cong., 2d Sess. (1988); S. 47, 101st Cong., 1st Sess. (1989); H.R. 655, 101st Cong., 1st Sess. (1989). Case, Repealable Rights: Municipal Civil Rights Protection for Lesbians and Gays, 7 LAW & INEQUALITY 441 (1989), at 444, n. 18.

origin is suspect. Padula v. Webster, 822 F.2d 97, 102-04 (D.C. Cir. 1987); Todd v. Navarro, 698 F.Supp. 871 (S.D.Fla. 1988).[8] The United States Supreme Court has upheld criminal statutes prohibiting sexual acts between homosexuals. Bowers v. Hardwick, 478 U.S. 186, 106 S.Ct. 2841, 92 L.Ed.2d 140 (1986).[9]

40. A few jurisdictions, however, prohibit discrimination against homosexuals.[10] Chicago is one of these jurisdictions. The Chicago Human Rights Ordinance, §2-160-030 of the Municipal Code, provides that:

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[8] Cf. Watkins v. U.S. Army, 847 F.2d 1329 (9th Cir. 1988), withdrawn, 875 F.2d 699 (9th Cir. 1989), cert. denied, -- U.S. --, 111 S.Ct. 384, 112 L.Ed.2d 395 (1990).

[9] For a general review of the law relating to homosexuals, see Developments -- Sexual Orientation and the Law, 1989 HARV.L.REV. 1509 (1989). For an example of legal writing hostile to the passage of laws that would protect homosexuals from discrimination, see e.g., Magnuson, Civil Rights and Social Deviance: The Public Policy Implications of the Gay Rights Movement, 9 HAMLINE J. PUBLIC LAW & POLICY 217 (1989).

[10] As of 1989, Wisconsin was the only state reported to bar discrimination against homosexuals. Wis.Stat.Ann. §111.31-.325, .36 (West 1988). In 1989, the following municipalities were reported to have ordinances that mention discrimination on the basis of sexual orientation: Alexandria, VA; Alfred, NY; Amherst, MA; Ann Arbor, MI; Aspen, CO; Atlanta, GA; Austin, TX; Baltimore, MD; Berkeley, CA; Boston, MA; Boulder, CO; Buffalo, NY; Burlington, VT; Cambridge, MA; Champaign, IL; Chapel Hill, NC; Chicago, IL; Columbus, OH; Cupertino, CA; Davis, CA; Dayton, OH; Denver, CO; Detroit, MI; East Hampton, NY; East Lansing, MI; Evanston, IL; Gaithersberg, MD; Harrisburg, PA; Hartford, CT; Houston, TX; Iowa City, IA; Ithaca, NY; Laguna Beach, CA; Los Angeles, CA; Madison, WI; Malden, MA; Marshall, MN; Milwaukee, WI; Minneapolis, MN; Mountain View, CA; New York, NY; Oakland, CA; Olympia, WA; Palo Alto, CA; Philadelphia, PA; Portland, OR; Pullman, WA; Raleigh, NC; Rochester, NY; Sacramento, CA; Saginaw, MI; San Francisco, CA; Santa Barbara, CA; Santa Cruz, CA; Seattle, WA; Troy, NY; Tucson, AZ; Urbana, IL; Washington, DC; West Hollywood, CA; and Yellow Springs, OH. Case, Repealable Rights: Municipal Civil Rights Protection for Lesbians and Gays, 7 LAW & INEQUALITY 441 (1989), at 441, 445, and n. 25.

No person shall directly or indirectly discriminate against any individual in hiring, classification, grading, discharge, discipline, compensation, or other term or condition of employment because of the individual's...sexual orientation....

The definitions in the Ordinance provide that:

> "Sexual orientation" means the actual or perceived state of heterosexuality, homosexuality or bisexuality.

Section 2-160-020 (k).

41. Because the federal government and states (other than Wisconsin) do not prohibit discrimination against homosexuals, there are few published decisions from federal or state courts construing similar laws. We are guided in the construction of this Ordinance primarily by the language of the Ordinance itself and by decisions construing other types of anti-discrimination laws.

42. The language of the Chicago Human Rights Ordinance prohibiting discrimination against homosexuals is plain and broad. Discrimination in employment against homosexuals, or against persons believed to be homosexuals, is flatly prohibited. No exceptions are found in the Ordinance. There is no suggestion in the Ordinance that there are some types of employment for which heterosexuality is so clearly demanded that discrimination against homosexuals would be allowed. (That is, in legal terms, the Ordinance does not provide that in some cases heterosexuality may be a bona fide occupational qualification.) There is no suggestion in the Ordinance that an employer may discriminate against homosexuals to suit the tastes of the employer's customers, or to satisfy the demands of other employees.[11]

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[11] The Commission Rules and Regulations, ¶305.110, provides that an employer may discriminate on the basis of a bona fide occupational qualification. It is the employer's burden to establish that such a bona fide occupational qualification exists. The Regulations specifically provide that a bona fide occupational

43. The Ordinance could be interpreted to provide that homosexuals are protected from discrimination only if they act like, or pretend to be, heterosexuals -- in their dress, mannerisms, friendships, and self-descriptions denying or hiding their homosexuality. But we understand the Ordinance to intend a wider zone of protection. This Ordinance gives homosexuals a right to publicly declare themselves as homosexuals and be free from discrimination as a consequence. Discriminating against a person for associating with homosexuals, or for adopting subtle mannerisms or styles of dress associated with homosexuals, is illegal under the Ordinance, just as discriminating against a person for engaging in interracial associations, or adopting distinctively African-American forms of dress or speech, constitutes illegal race discrimination. Brown v. City of Chicago, CCHR No. 90-E-82 (6/17/92), at 15 (interracial association); E.E.O.C. v. St. Anne's Hospital of Chicago, Inc., 664 F.2d 128, 132-33 (7th Cir. 1981) (employee may not be discharged for hiring African-American man, regardless of threats received as a result); Moffett v. Gene B. Glick Co., Inc., 621 F.Supp. 244 (N.D.Ind. 1985) (interracial association); Chacon v. Ochs, 780 F.Supp. 680 (C.D.Cal. 1991)

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qualification may not be:

> based on the preferences of co-workers, clients, or customers or customs or traditions which discriminate against persons from a particular protected class.

CCHR Rules and Regulations, as amended effective 1/01/92, ¶305.110(c).

(interracial association). Construction of the Ordinance in any other fashion would drain it of most of its meaning.

44. This is not to say that a homosexual employee can adopt any form of behavior or dress, no matter how outlandish or disruptive, and claim protection under the Human Rights Ordinance, arguing that this conduct is a protected expression of his or her sexual orientation. Heterosexual employees may be restricted by their employers in their dress or prohibited from using coarse or sexually-explicit language, or prohibited from harassing employees of another sex. See, e.g., Bohen v. City of East Chicago Ind., 799 F.2d 1180 (7th Cir. 1986); Andre v. Bendix Corp., 42 FEP Cases 483, 495 (N.D.Ind. 1986); Robinson v. Jacksonville Shipyards, Inc., 760 F.Supp. 1486 (M.D.Fla. 1991); Carrero v. New York City Housing Authority, 890 F.2d 569 (2d Cir. 1989). Homosexual employees may be subject to similar, equal restrictions.

45. The Human Rights Ordinance gives a homosexual employee the right to express his or her homosexuality in style, dress, mannerisms, and speech, just as heterosexual men and women express their sexuality in style, dress, manner, and speech. Compare Carroll v. Talman Federal Savings & Loan Ass'n of Chicago, 604 F.2d 1028 (7th Cir. 1979), cert. denied, 445 U.S. 929, 100 S.Ct. 1316, 63 L.Ed.2d 762 (1980) (women cannot be required to wear uniform where men are not subject to similar requirement). In Chicago, homosexual employees have the right to express their sexual preferences, even if it disturbs customers, or makes fellow

employees queasy. But homosexual employees, like other employees, do not have the right to make their sexual preferences the issue of primary concern in the workplace, unduly distracting from the business at hand.

46. With this as a starting point, it seems clear to us, in this case, that Windy Pearson was subject to illegal discrimination because of her sexual orientation. Respondents as much as admitted this fact.

47. Ms. Pearson was objectionable to Norma Williams because they had homosexual friends or acquaintances in common. Norma Williams was threatened and troubled by this fact -- she felt she might be, or was being, blackmailed. It is extremely unlikely that Ms. Williams would have reacted in the same way if Ms. Pearson and Ms. Williams had heterosexual friends in common, or recognized each other from some heterosexual social setting. Ms. Pearson was fired in part because of her prior association with homosexuals, which she did not conceal or deny.[12]

48. It seems clear to us, also, that Ms. Williams objected to Ms. Pearson because she feared that Ms. Pearson's homosexuality would offend clients and might lead clients to associate NJW and Ms. Williams with homosexuals and homosexuality, at the cost of

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[12] Our conclusions in this case might be different if Ms. Pearson had in fact tried to blackmail or use leverage over Ms. Williams, threatening to "expose" her. There is no substantive evidence of that, however. Windy Pearson told Norma Williams they had friends in common only when Ms. Williams said that Ms. Pearson looked familiar, inviting Ms. Pearson to explain that they had met before.

business. We cannot understand Ms. Williams' remarks in any other way: her concern that Ms. Pearson's voice was too "heavy"; that customers could not tell if Ms. Pearson was a guy or a girl; her remark to Laverne Hall that she fired Windy Pearson "because people could not tell what she was." Customer preference, however, generally is not a legal ground for discrimination. Santiago v. Bickerdike Apartments, CCHR No. 91-FHO-54-5639 (5/28/92), at 25; CCHR Rules and Regulations, ¶305.110(c); Rucker v. Higher Education Aids Bd., 669 F.2d 1179, 1198 (7th Cir. 1982); Diaz v. Pan American World Airways, 442 F.2d 385 (5th Cir. 1971), cert. denied, 404 U.S. 950, 92 S.Ct. 275, 30 L.Ed.2d 267 (1971); Fernandez v. Wynn Oil Co., 653 F.2d 1273, 1276-77 (9th Cir. 1981).

49. It is also clear to us, finally, that Ms. Williams was worried that staff members would be offended by or object to Ms. Pearson's homosexuality and might become uncomfortable if they learned, through Ms. Pearson, of Ms. Williams' friendship with homosexuals. Thus, when Ms. Pearson told Ms. Williams they had a homosexual friend in common, Ms. Williams told Ms. Pearson, "That's not something I care to discuss. It's not something my staff is aware of." Thus, Ms. Williams wondered aloud to Kadi Sisay how the rest of the staff would respond to Windy Pearson's homosexuality. Thus, Ms. Williams told Ms. Pearson that staff members had approached her to ask if Ms. Pearson was gay.

50. It violates the Human Rights Ordinance to discriminate against an employee, in part or in whole, because of (a) the employee's association with homosexuals, and the employee's

recognition of the employer through those associations; or (b) a desire to satisfy customer preferences, or preserve a particular business image with customers; or (c) a desire to placate other employees. All of these were factors in the decision to fire Ms. Pearson, indicating that the Human Rights Ordinance was violated.

51. That is not the end of the story, however, for we are also convinced that Ms. Pearson was not a good employee and would not have lasted long at NJW, regardless of her sexual orientation. An employee who defends disruptive, angry, argumentative behavior by saying, "I think we are all entitled to have periodically an attitude" is not likely to stay employed for long. Ms. Pearson, we are convinced, was disruptive and argumentative, both with co-workers and clients. There were significant problems with the AT&T account, for which Ms. Williams could hold Windy Pearson responsible. We believe Ms. Williams testimony that Ms. Pearson's dress and demeanor did not satisfy her expectations and standards. Finally, NJW was losing money. It had no room for a troublesome employee of questionable productivity.

52. This, then, is a classic case of mixed motives. Ms. Pearson's homosexuality was a factor in the decision to fire her, but it was not the only factor.

53. The federal courts, in these circumstances, have held that an employer who discriminated may defend by pleading and proving, as an affirmative defense, that it would have discharged the employee anyway, for other reasons. If the employer carries

its burden, the employee gets no damages. If the employer fails to carry its burden, the employee gets the full panoply of relief. Price Waterhouse v. Hopkins, 490 U.S. 228, 109 S.Ct. 1775, 104 L.Ed.2d 268 (1989); Visser v. Packer Engineering Associates, Inc., 924 F.2d 655, 658 (7th Cir. 1991) (en banc).[13]

54. Many parts of this formula may be usefully applied to the Chicago Human Rights Ordinance, but we do not adopt this formula in its entirety.[14] We describe the rules that apply in the circumstances of this case below.

55. First, we hold that any time an illegal motive has played a part in an employment decision covered by the Ordinance, the Ordinance has been violated. Compare Johnson v. Stoller & Maurer

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[13] Considerations other than poor performance may cut off the accrual of damages at a date after the discharge, including, for instance, elimination of the employee's position, a plant shutdown, an intervening disability, or an unconditional offer of reinstatement. See, e.g., Ford Motor Co. v. E.E.O.C., 458 U.S. 219, 102 S.Ct. 3057, 73 L.Ed.2d 721 (1982) (unconditional offer of reinstatement); Archambault v. United Computing Systems, Inc., 786 F.2d 1507 (11th Cir. 1986) (reduction in force); Graefenheim v. Pabst Brewing Co., 870 F.2d 1198 (7th Cir. 1989) (reduction in force).

[14] As we have said in the past:

> [F]ederal cases construing federal anti-discrimination laws and Illinois state court cases construing the Illinois Human Rights Act...serve to give guidance on how a law such as the Chicago Human Rights Ordinance might be construed, but they are not dispositive. The Chicago Human Rights Ordinance is a different law, using different language, passed by a different legislative body.

Jenkins v. Artists' Restaurant, CCHR No. 90-PA-74 (8/14/91), at 14, n. 3

Construction Co., 17 Ill. HRC Rep. 215 (1985); and Martin v. Du-Mont Co., 33 Ill. HRC Rep. 407 (1987)

56. Second, requiring a respondent to plead the "same result" defense as an affirmative defense does not fit reasonably into the structure of the Human Rights Ordinance and we hold that it is not required. Under the Ordinance and the Commission's Rules and Regulations, a respondent may not be required to file any answer at all. CCHR Rules and Regulations ¶210.180. There is no requirement in the Commission's regulations that the "same result" defense be pled as an affirmative defense, nor has any previous decision of the Commission announced such a requirement. In these circumstances, faulting a respondent for failing to plead this affirmative defense would unfairly surprise most litigants.

57. Third, we hold that a respondent who is found to have discriminated but contends it would have taken the same action anyway, for legitimate reasons, bears the burden of proving that contention. An employer who has discriminated no longer deserves to have the burden of proof placed on the plaintiff. Price Waterhouse v. Hopkins, supra, 490 U.S. 228, 109 S.Ct. at 1787-88 (1989).

58. Fourth, we hold that the analysis to be applied in a case such as this one does not reduce to an all-or-nothing decision, in which plaintiff wins absolutely or defendant wins absolutely. That is, we do not believe the relevant question is simply whether or not the employer, for legitimate reasons, would have discharged the complainant anyway at the date it actually discharged her. Rather,

we believe the employer's contention that it had valid reasons to be dissatisfied with the employee is an element to be taken into account in the calculation of complainant's damages. Even if complainant was discharged for illegal reasons, respondents may be able to reduce damages by proving, by a preponderance of the evidence, that complainant would have been discharged at the actual date of discharge or at a later date for legitimate reasons unrelated to discrimination.

59. We stress again that it is respondents' burden to make the requisite showing if it seeks to reduce damages on this ground. Respondents' burden in this regard is just as heavy as complainant's burden was to prove discrimination in the first place. Any conclusions about what would have happened, instead of what actually happened, are necessarily difficult for the fact-finder. "What would have happened" takes the fact-finder away from the realm of actually finding facts, and carries the fact-finder necessarily into a realm that requires some conjecture and estimation. We will not lightly accept the protestations of a discriminating respondent that it would have taken the same action anyway.

60. In addition, we stress that in this situation, all ambiguities with respect to the calculation of damages will be resolved in favor of the complainant and against the discriminating respondents. Liberles v. County of Cook, 709 F.2d 1122, 1136 (7th Cir. 1983); Clark v. Human Rights Comm'n, 141 Ill.App.3d 178, 490

N.E.2d 29, 33, 95 Ill.Dec. 556 (1st Dist. 1986), review denied, 112 Ill.2d 571 (1986). In many cases of mixed motives, it will be clear that the complainant was sufficiently deficient as an employee that she would have been terminated eventually for reasons unrelated to discrimination. But the date when this termination would have occurred will be very difficult to fix and will be an estimate, at best. In these circumstances, all inferences will be drawn and estimates will be made to favor the complainant and against the discriminating respondents.

61. Applying this analysis, we conclude that in this case, respondents have proven, by a preponderance of the evidence, that complainant Windy Pearson would have been terminated eventually, even if respondents had not been motivated by discriminatory factors. In particular, NJW's distressed financial situation makes it more probable than not that Ms. Pearson would have been terminated.

62. When Ms. Pearson would have been terminated, if NJW had not discriminated, is a much more difficult question. Respondents apparently contend that Ms. Pearson would have been terminated anyway at the end of July, 1991, even if it had not discriminated. We do not believe NJW has proven this by a preponderance of the evidence. After all, NJW hired Ms. Pearson even when it was in financial distress. And, even when it was governed by discriminatory motives, NJW initially planned not to fire Ms. Pearson, but to move her into a sales position.

63. Our best estimate is that NJW, if it had not been influenced by discriminatory motives, would have terminated Ms. Pearson anyway approximately one and one-half months after the actual date of her discharge. Accordingly, we award Ms. Pearson damages of $2,812.50, equal to one and one-half months wages, to be paid by NJW and Norma J. Williams. Additional damages will not be awarded. Ms. Pearson did not offer evidence of other damages and did not ask for an award of other damages.

64. Ms. Pearson is entitled to prejudgment interest on her damages, at the prime rate, adjusted quarterly, compounded annually, calculated from the period of her loss. See CCHR Rules and Regulations, as amended, effective 1/01/92, ¶240.120(d); and Jenkins v. Artists' Restaurant, CCHR No. 90-PA-14 (8/14/91), at 22. The parties should attempt to stipulate to this amount.

65. The Chicago Human Rights Ordinance, ¶2-160-120 of the Chicago Municipal Code, provides that a fine not less than $100.00 and not more than $500.00 shall be levied for each offense. The Code provides that "every day that a violation shall continue shall constitute a separate and distinct offense." Id. In this case, the Commission orders that respondents NJW Office Personnel Services, Inc. and Norma J. Williams pay a fine of $500.00 to the City of Chicago.

66. A complainant who has prevailed, as Ms. Pearson has prevailed here, is normally entitled to an award of attorneys' fees and costs. Huezo v. St. James Properties, CCHR No. 90-E-44

(10/09/91), at 3; Akangbe v. 1428 West Fargo Condominium, CCHR No. 91-FHO-7-5595 (3/25/92), at 28; Jenkins v. Artists' Restaurant, CCHR No. 90-PA-14 (8/14/91), at 21-23. Whether such an award may be granted to a pro se litigant has not yet been determined by the Commission. If Ms. Pearson seeks such fees and costs, she is required to file with the Commission, within 21 days of receiving this decision, a statement of fees and costs supported by argument and affidavits. The petition should itemize in particular any costs incurred, providing copies of supporting bills and receipts. CCHR Rules and Regulations, ¶240.120(c). This pleading should also be served on respondents' counsel Ariel Weissberg and the hearing officer. If such a pleading is filed, respondents shall have 14 days to respond to it. The response should be filed with the Commission and served on the hearing officer and on complainant Ms. Pearson. CCHR Rules and Regulations, ¶240.120(c)(3). Complainant may file and serve a reply brief within five calendar days of receiving respondents' brief. CCHR Rules and Regulations, ¶240.120(c)(4).

ENTERED this 21st day of September, 1992.

CHICAGO COMMISSION ON HUMAN RELATIONS

Clarence N. Wood
Chair/Commissioner

CITY OF CHICAGO
COMMISSION ON HUMAN RELATIONS
500 N. PESHTIGO CT., 6TH FLOOR
CHICAGO, IL 60611

IN THE MATTER OF:	)	
	)	
WINDY PEARSON,	)	
	)	
Complainant,	)	Case No. 91-E-126
and	)	
	)	
NJW OFFICE PERSONNEL SERVICES, INC., and NORMA J. WILLIAMS,	)	
	)	
Respondents.	)	

ORDER

Based on the Findings of Fact and Conclusions of Law that precede this order, the Chicago Commission on Human Relations hereby orders:

1. Respondents NJW Office Personnel, Inc. and Norma J. Williams ("Respondents") are ordered to pay a fine to the City of Chicago in the amount of $500.00.

2. Respondents are ordered to pay to Complainant Windy Pearson ("Complainant") damages in the amount of $2812.50, with prejudgement interest calculated at the prime rate, adjusted quarterly, compounded annually, calculated from the date she was fired.

3. If Complainant seeks attorney's fees and costs, she is ordered to file with the Commission and Hearing Officer and serve on the Respondent a statement of such fees and costs, with supporting documentation within 21 days of receipt of this order. Respondent may file a response 14 days thereafter. Complainant may then reply within seven days. The Commission will rule by mail.

COMMISSION ON HUMAN RELATIONS

Date: September21 1992

Clarence N. Wood
Chair/Commissioner