
Civil Rights Division – Bureau of Labor & Industries
Complaint Dismissal Memo

Complainant: Robert Baker
Respondent: City of Powers
Case Number: AGEMAG200406-60432
Date: August 6, 2020
Investigator: Jared Bordere
Reviewed by: _____ Theodore Wenk /s/ _____ Date: 8.13.20

Complainant alleges that Respondent subjected him to different terms and conditions of employment based on age and whistleblowing activities in that they terminated him from employment. Respondent denies the allegations and states legitimate nondiscriminatory reasons for terminating Complainant from his employment.

Complainant alleges that he was subjected to different terms and conditions of employment by the City of Powers. Complainant alleges during a meeting with Mayor Kohn he was told too, “slow things down” in terms of enforcing the law in Powers. Complainant was also allegedly told he was too young for the job.

Respondent claims there were concerns regarding Mr. Baker’s ability to perform his job and serve the public. There were numerous complaints raised by residents and councilors. Complaint was subject to numerous public complaints. These issues were brought to the City’s attention, the City addressed the concerns with Mr. Baker through various meetings and ultimately a letter of reprimand discussed in further detail below. As a result of the concerns, Mr. Baker’s probationary period was extended to allow time for Mr. Baker to resolve the concerns that were raised. Such issues were addressed during periodic reviews. However, many of the deficiencies and concerns persisted and were not remedied which ultimately resulted in Mr. Baker being placed on paid administrative leave and discharged.

In the initial interview Complainant stated that during the period that was extended to allow him to resolve the concerns that he in fact did. He stated he dropped off written responses to City Hall. Complainant alleges Robert Kohn said he received the written response and they looked fine.

OAR 839-003-0005 (15) defines substantial evidence as “[p]roof that a reasonable person would accept as sufficient to support the allegations of the complaint”. The city hand book clearly allows for extension of probationary period. It states, “If your knowledge, skills, and abilities border on satisfactory but fall short of expectations, the probationary period may be extended by action of the City Council if there is reason to believe that your performance will improve within a reasonable amount of time. If expectations are not met or demonstrated, and/or your performance is not satisfactory, it is unlikely that employment will be continued.” During the course of the interview, there was a lot of

evidence Mr. Baker did not have. He did not have copies of any of his responses, not even on his computer. Based on the evidence available, it is my determination that Mr. Baker's performance evaluations and the extension of his probationary period were based solely on complainants on his job performance. The record does not contain substantial evidence of a causal connection between any adverse employment harm and Complainant's age and whistleblowing activity. Respondent's stated legitimate nondiscriminatory reasons for terminating Complainant's employment.

Based on the foregoing and the totality of the evidence provided, I recommend this case be dismissed.

/s /Jared Bordere