

**EQUAL OPPORTUNITIES COMMISSION  
CITY OF MADISON  
210 MONONA AVENUE  
MADISON, WISCONSIN**

<p>Willie A. Fields 200 Castille, #5 Madison, WI 53701</p> <p style="text-align: center;">Complainant</p> <p style="text-align: center;">vs.</p> <p>Roadway Express, Inc. 3533 International Lane Madison, WI 53704</p> <p style="text-align: center;">Respondent</p>	<p>RECOMMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER</p> <p>Case No. 2716</p>
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A complaint of discrimination was received on November 12, 1980 by the Madison Equal Opportunities Commission (MEOC) alleging discrimination on the basis of race in regard to hire (the complaint was originally filed on November 6, 1980 with the Wisconsin Equal Rights Division and was referred to the MEOC).

Said complaint was investigated by Human Relations Investigator Mary Pierce and an Initial Determination dated February 17, 1981 was issued finding probable cause to believe discrimination had occurred as alleged.

Conciliation failed or was waived and the matter was certified to public hearing. A hearing was held on December 21, 1981. Attorney Randall Aronson of JULIAN AND OLSON, S.C. appeared for the Complainant who also appeared in person. Attorney Terrence Srsen appeared for the Respondent. Based upon the record of the hearing, the Examiner proposes the following RECOMMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER:

**RECOMMENDED FINDINGS OF FACT**

1. The Complainant, Willie A. Fields, is a black male residing in the State of Wisconsin.
2. The Respondent, Roadway Express, Inc., is an employer doing business in the City of Madison.
3. The Complainant applied for a job as a driver/dock worker with the Respondent on or about September 30, 1980. He was told to maintain phone contact with the Respondent.
4. Subsequent to the Complainant having made his application, the Respondent employed Lori Jasper, Anna Ingeana, and Ned Mortenson as part-time driver/dock workers. All three employees were white.
5. Sometime in early November, 1980, the Respondent determined upon a re-review of the Complainant's application that the Complainant did not meet its minimum one-year commercial driving requirement.
6. Jasper, Ingeana, and Mortenson each met the Respondent's minimum one-year commercial driving experience requirement.

**RECOMMENDED CONCLUSIONS OF LAW**

1. The Complainant is a member of the protected class of race within the meaning of Section 3.23, Madison General Ordinances.
2. The Respondent is an employer within the meaning of Section 3.23, Madison General Ordinances.
3. The Respondent did not discriminate against the Complainant on the basis of race in violation of Section 3.23, Madison General Ordinances.

**RECOMMENDED ORDER**

That this case be and hereby is dismissed.

**OPINION**

This case was disposed of by the Examiner's granting of the Respondent's Motion to Dismiss for failure by the Complainant to establish a prima facie case of discrimination. The Respondent's motion was made and argued orally at the hearing.

Essentially, the Complainant failed to carry its initial burden of proof to establish a prima facie case of discrimination by a preponderance of the evidence. The Complainant did not show that he met the minimum qualifications for the job applied for, specifically the one-year commercial driving requirement, nor otherwise presented sufficient evidence to raise an inference of discrimination in order to shift the burden of proof to the Respondent to articulate legitimate, non-discriminatory reasons for the failure or refusal to hire.<sup>1</sup>

Signed and dated this 3rd day of March, 1982.

EQUAL OPPORTUNITIES COMMISSION

Allen T. Lawent  
Hearing Examiner

cc: Attorney Randall Aronson, Attorney for Complainant  
Terrence Srsen, Attorney for Respondent

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<sup>1</sup>See Texas Department of Community Affairs v. Burdine, 101 S.Ct. 1084, 25 EPD 30, 544 (1981). The Complainant presented no evidence to raise an inference of discrimination (such as that the one-year requirement had been waived for whites, relevant statistical evidence, or any other probative evidence).