

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

<p>Malka Strachan 1914 Post Road, # 308 Madison, WI 53713</p> <p style="text-align: center;">Complainant</p> <p style="text-align: center;">vs.</p> <p>Independent Living 1245 East Washington Avenue Madison, WI 53704</p> <p style="text-align: center;">Respondent</p>	<p>RECOMMENDED DECISION</p> <p>Case No. 2778</p>
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A complaint was filed on March 3, 1981 with the Madison Equal Opportunities Commission (MEOC) alleging discrimination on the basis of age and race in regard to employment. Said complaint was investigated by MEOC Human Relations Investigator Mary Pierce and an Initial Determination dated July 27, 1981 was issued concluding probable cause to believe discrimination had occurred regarding the age allegations and no probable cause to believe discrimination had occurred regarding the race allegations.

No timely appeal of the no probable cause (race) allegations was made by the Complainant, and those allegations were effectively dismissed.

Conciliation either failed or was waived regarding the probable cause (age) allegations and the matter was certified to public hearing. A hearing was held commencing on June 24, 1982. Attorney Randall Aronson of JULIAN AND OLSON, S.C. appeared on behalf of the Complainant who also appeared in person; Attorney Susan Steingass of STAFFORD, ROSENBAUM, RIESER AND HANSEN appeared on behalf of the Respondent who also appeared by designated employee-representative Lori Kay. Based upon a review of the record, and including consideration of the legal arguments made by the parties, the Examiner enters the following RECOMMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER:

**RECOMMENDED FINDINGS OF FACT**

1. The Complainant, Malka Strachan, is an adult female residing in the City of Madison, State of Wisconsin.
2. The Respondent, Independent Living, employs persons in the City of Madison, State of Wisconsin. Respondent's employees are involved with programs mainly designed to assist elderly citizens of the community.
3. The Complainant applied for a position with the Respondent as a Telephone Communications Coordinator. The Complainant was approximately 62 years of age at the time her application was considered by the Respondent in February of 1981. The Complainant's application had originally been submitted to the Respondent on December 24, 1980.
4. The job description for the Telephone Communications Coordinator position, also known as the Communications and Scheduling Coordinator position, is stated in Complainant's Exhibit 2 which entire content is hereby incorporated into this finding of fact.
5. The minimum qualifications for the position of Telephone Communications Coordinator are as follows:

A. Required Knowledges, Skills and Abilities

(1) Ability to establish a working relationship with staff and elderly clientele, visitors and volunteers.

(2) A knowledge of the city and various streets.

(3) Sensitivity for the concerns of others, including patience and tact.

B. Training and experience

(1) Education and training, work or other life experience which would provide reasonable assurance that the skills required to perform the tasks listed above (in Complainant's Exhibit 2) is present.

6. The Complainant's past experience included (a) the counseling of elderly inmates at the Hawaii State Prison from 1976 1979 and (b) directing a Jamaica, New York poverty program from 1970 1975 where she retrained people over 55 years of age to reenter the labor market including training people to operate a telephone communications device (switchboard) with six lines.

7. In addition, the Complainant had worked as a volunteer at Independent Living for several months prior to her application being considered for the Telephone Communications Coordinator position. During this volunteer period, the Complainant had telephoned clients, screened to see if additional records were needed for clients, and filed and alphabetized client records. On occasion the Complainant also went into Respondent's Department of Transportation and performed duties with the telephone communications device on a fill in basis.

8. The Complainant's performance as a volunteer for the Respondent was satisfactory except that the Respondent's Volunteer Coordinator, Beverly Ward, had received complaints from some of the paid employees that the Complainant carried on long telephone conversations and talked loudly while on the phone in such a manner that she disturbed co workers. Allen Peck, one of the paid employees who complained about the Complainant's long and loud conversations, was approximately 70 years old at the time he worked with the Complainant. The Respondent also received complaints that the Complainant used vulgar language around the office, although not on the telephone.

9. It was important for the Respondent not to have telephone lines tied up more than necessary so clients could call or in order for the Respondent's employees to do safety checks which could have been a matter of life or death to some of the clients.

10. Nine out of 26 applicants were selected by the Respondent to be interviewed for the Telephone Communications Coordinator position. Seven candidates, including the Complainant were actually interviewed. The Complainant was the only person over 40 years of age who was interviewed, although four other applicants over 40 had applied.

11. The Respondent's workforce in 1981 consisted of employees in the following categories: 30% of the employees were 40 years of age or older; 21% were 50 years of age or older; 14% were 60 years of age or older (these percentages are not cumulative and should not be added together).

12. Betsy Louise Crawford, age 23, was hired for the position as Telephone Communications Coordinator. While Ms. Crawford's past experience at the time of her hire in working with the elderly was at best minimal, she exhibited a calm, tactful, extraordinarily patient demeanor during her interview and was the only candidate who answered each of the two situation questions regarding how to handle an emergency without prompting.

### **CONCLUSIONS OF LAW**

1. The Complainant is a member of the protected class of age 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 her age in violation of Section 3.23, Madison General Ordinances by failing to hire her as a Telephone Communications Coordinator.

### **ORDER**

That this case be and hereby is dismissed.

### **OPINION**

The Complainant's training and experience clearly exceeded that of Crawford in regard to past work with elderly clients. However, the Complainant's volunteer experience with the Respondent had raised serious questions about her ability to establish a working relationship with staff.

In addition to believing that candidate Crawford had performed more adequately than the Complainant and the other candidates during the job interview, particularly in responding to the two questions regarding the handling of emergencies, the Respondent was concerned about complaints that the Complainant tied up the telephone lines with lengthy conversations and talked too loudly and/or vulgarly in a manner that disrupted co workers. Although the Telephone Communications Coordinator worked in a different room than the Complainant had as a volunteer, the likelihood of disruption by Complainant's conduct was shown not to be diminished.

The Complainant failed to present any evidence to show that the Respondent's articulated non discriminatory reasons were pretextual of age discrimination.

Signed and dated this 24th day of August, 1982.

Allen T. Lawent  
Hearing Examiner

cc: Equal Rights Division  
Percy Julian, Attorney for Complainant  
Susan Steingass, Attorney for Respondent