

State of Wisconsin



Labor and Industry Review Commission

Michael Young, Complainant

Public Accommodation Decision¹

State of Wisconsin, Department of
Workforce Development, Division of
Employment and Training,
Respondent

Dated and Mailed:

ERD Case No. CR201703258

January 31, 2022
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The decision of the administrative law judge is **affirmed**. Accordingly, the complainant's complaint is dismissed.

By the Commission:

/s/

Michael H. Gillick, Chairperson

/s/

Georgia E. Maxwell, Commissioner

/s/

Marilyn Townsend, Commissioner

¹ **Appeal Rights:** See the pink enclosure for the time limit and procedures for obtaining judicial review of this decision. If you seek judicial review, you **must** name the Labor and Industry Review Commission as a respondent in the petition for judicial review. Appeal rights and answers to frequently asked questions about appealing a fair employment decision to circuit court are also available on the commission's website, <http://lirc.wisconsin.gov>.

Procedural Posture

This case is before the commission to consider the complainant's allegation that the respondent discriminated against him based upon his race, in violation of the Wisconsin Public Accommodation and Amusement Law. An administrative law judge for the Equal Rights Division of the Department of Workforce Development held a hearing and issued a decision finding no probable cause to believe that discrimination occurred. The complainant has filed a timely petition for commission review of that decision.

The commission has considered the petition and the positions of the parties, and it has reviewed the evidence submitted at the hearing. Based on its review, the commission agrees with the decision of the administrative law judge, and it adopts the findings and conclusions in that decision as its own.

Memorandum Opinion

In his petition for commission review the complainant argues that a person of his race should have the right to go to any Wisconsin job service office to look for a job. The commission fully agrees. However, the respondent also has rights, including the right to exclude from the premises individuals who are disruptive. In this case, it appears that the complainant was barred from the respondent's office because he engaged in some type of rude or disruptive conduct.² The complainant failed to present any reason to believe that his race or color had any bearing on that decision.

While the complainant maintains that he should prevail because the respondents were not at the hearing, the fact remains that the complainant had the ultimate burden of proof in this matter; the respondent did appear at the hearing and, although it chose not to present any evidence on its behalf, that does not necessarily mean the complainant wins his case. The complainant testified that he was told he was banned from the job service office because of rude or disruptive conduct. While the complainant denied having engaged in such conduct, his own witness testified that he has frequently had to caution the complainant against swearing and talking too loudly in a variety of settings, ranging from the public library to job interviews. In fact, the complainant's witness accurately observed that the complainant engaged in such behavior at the hearing. The complainant's witness, a job services employee who has been assisting the complainant away from the job service office, also indicated that he provides services to job seekers who are the same race as the complainant and, further, that he could recall an instance when a Caucasian individual was also banned from the job center. Under all the facts and circumstances, the commission can see no reason to believe that the complainant's

² The commission disagrees with the administrative law judge that the complainant needed to allege that he "tried to gain access to and was denied access to a job center" in order to state a claim that would be covered under the statute. (Memorandum Opinion, page 5). The complainant's assertion that he was informed by telephone and by letter that he was not welcome in job service offices is sufficient to state a claim that he was denied access to a public place of accommodation.

race was a factor in the respondent's decision to deny him access to job services offices. The dismissal of the complaint is, therefore, affirmed.

cc: Attorney Earnest Jones