State of Wisconsin

Labor and Industry Review Commission

James C. Young, Complainant **Amazon.com Services, LLC**, Respondent ERD Case No. CR202101968 EEOC Case No. 26G202100894C	**Fair Employment Decision**[1] **Dated and Mailed:** July 14, 2025 youngja_rsd.doc:164

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 green 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 in the terms and conditions of his employment based upon his age, and refused to provide a reasonable accommodation for his disability, in violation of the Wisconsin Fair Employment Act (hereinafter "Act"). An administrative law judge for the Equal Rights Division of the Department of Workforce Development held a hearing and issued a decision finding no discrimination. 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 has reviewed the evidence submitted at the hearing. Based on its review, the commission agrees with the decision of the administrative law judge, and adopts the findings and conclusions in that decision as its own.

Memorandum Opinion

The initial issue presented in this case is whether the complainant established that the respondent violated the Act by refusing to provide a reasonable accommodation for his vision disability. The administrative law judge found that he did not, and the commission agrees.

The complainant's claim centers around the fact that he requested, but was not granted, a larger than standard sized laptop with which to do his work and that there was a delay in his receipt of the alternative accommodation he was provided. It is well settled law that an employer need not provide the exact accommodation an employee requests so long as it provides one that is effective. *See*, *Norton v. City of Kenosha*, ERD Case No. 9052433 (LIRC March 16, 1994)("If an employer offers an accommodation which effectively eliminates the conflict between the [disabled] employee's abilities and the job requirements, and which reasonably preserves the affected employee's employment status, the accommodation requirement has been satisfied.") Here, although the respondent was originally unwilling to provide the larger laptop requested by the complainant because it understood that it would not be compatible with some of its IT functions, it provided an alternative accommodation that it reasonably believed would enable the complainant to do the job, notwithstanding his visual impairment. That it took a little over a month for the equipment to become available for the complainant's use, during which time the respondent considered the viability of the request, looked at alternatives, and then ordered the equipment and waited for it to arrive, was not shown to be excessive or in bad faith, and did not amount to the type of unreasonable delay in providing an accommodation that could constitute a violation of the Act. Moreover, when the respondent became aware that the equipment it had ordered for the complainant was not working to his satisfaction, it immediately began the process of finding a better accommodation, but--for reasons that were completely unrelated to the accommodation issue--the complainant tendered his resignation before it could do so. There can be no finding of discrimination under these facts.

In his petition for commission review the complainant argues that the administrative law judge was biased against him and engaged in misconduct. The complainant makes three arguments in support of these allegations. First, he points out that a different administrative law judge made a previous decision finding probable cause on the accommodation issued, which the administrative law judge ignored. Second, he argues that the administrative law judge refused to issue a subpoena for one of his witnesses or allow the complainant to present a videotape of the witness testifying at a different proceeding. Third, the complainant contends that the administrative law judge ignored key evidence provided by one of his witnesses. The commission has considered these arguments, but does not find them persuasive.

The current case was before the administrative law judge on the merits, and the complainant had the burden of establishing discrimination by a preponderance of the evidence. The probable cause hearing to which the complainant refers was a separate proceeding involving a different evidentiary record and legal standard.[2] The fact that the administrative law judge who conducted the instant hearing, involving a different evidentiary record and a higher legal standard, arrived at a different conclusion than the administrative law judge who conducted the probable cause hearing is not evidence of bias on his part.

The commission finds the complainant's second argument equally unavailing. The commission need not decide whether the administrative law judge's refusal to issue a subpoena or permit video evidence into the record was an abuse of discretion on his part because there is simply no reason to believe that the absence of testimony from the witness in question, Don Pich, the respondent's IT manager, resulted in any prejudice to the complainant's ability to present his case. On March 5, 2024, the complainant submitted an email to the administrative law judge, in which he explained what each of his witnesses would testify to. The complainant indicated that if Mr. Pich were able to testify he would testify that he received no request for a larger laptop from Ashley Moran, the respondent's HR manager, and that larger laptops were, in fact, available. However, whether or not a larger laptop was available and not requested does not change the essential facts that 1) the respondent provided the complainant with an accommodation that it reasonably believed would be effective (a RUBY magnifier and large sized monitor, along with a cart to transport it) and 2) upon learning that the proffered accommodation was not working satisfactorily, the respondent attempted to resolve the matter, ultimately deciding to offer the complainant a larger laptop, the accommodation he had originally requested. These facts do not support a finding of discrimination.

[2] The burden of establishing probable cause is less than the preponderance of evidence burden required to establish discrimination on the merits; it has been characterized as "somewhere between a preponderance of the evidence and a suspicion." *See*, *Hintz v. Flambeau Medical Center*, ERD Case No. 8710429 (LIRC Aug. 9, 1989).

Therefore, even if the administrative law judge had found a way to help the complainant get Mr. Pich's testimony into the record, that testimony would not have moved the needle in the complainant's favor.

With respect to the argument that the administrative law judge disregarded key evidence, the complainant asserts that Ashley Moran, the HR manager, testified that she did not submit a laptop request for the complainant, despite admitting that such a request is standard protocol, and that the administrative law judge ignored this admission and incorrectly concluded that the respondent was in the process of obtaining a laptop for the complainant. The complainant further contends that Ms. Moran admitted sending an email to the complainant stating he was not getting the laptop, which he claims contradicts the respondent's statement that it was in the process of getting the larger laptop. The commission, again, finds these arguments unpersuasive. At the hearing Ms. Moran testified that she did not make a formal written request for a laptop for the complainant but stated that she did discuss the matter with Mr. Pich and was told that the accommodation was not feasible. Ms. Moran acknowledged having sent an email to the complainant advising him that he would not be receiving a larger sized laptop. However, subsequent to sending the email in question, Ms. Moran learned that the alternative accommodation the respondent had provided was not working satisfactorily, at which point the respondent began the process of obtaining a larger laptop. As Ms. Moran's testimony demonstrates, the accommodations process can be a fluid one, and an employer may attempt several accommodations before arriving at one that fully and adequately resolves the issue. The administrative law judge's findings of fact with respect to the accommodations process engaged in in this case are supported by the record and consistent with the testimony of Ms. Moran and other witnesses. That the administrative law judge did not adopt the complainant's version of events is not evidence of bias on his part.

Turning, finally, to the complainant's allegation of age discrimination, in his petition the complainant argues that the administrative law judge failed to adequately address substantial testimony and evidence demonstrating discriminatory treatment based upon age. He maintains that he made repeated and documented complaints of disparate treatment compared to his younger colleagues that were not investigated or considered by the respondent. The commission has considered this argument, but is unconvinced. At the hearing the complainant testified that the individual responsible for training him often ignored his questions while being more receptive to a younger worker, Blake Buttweiler. The complainant testified that he notified management of the problem on several occasions and explained that he believed there was differential treatment based upon age, but nothing was done. However, the respondent's witnesses disputed this version of events. Ryan Tannebaum, the manager responsible for training the complainant, testified that he thought the training went well and denied avoiding the complainant or refusing to answer his questions. The complainant's younger

counterpart, Blake Buttweiler, also appeared at the hearing and testified that, as far as he could tell, Mr. Tannebaum treated him and the complainant the same. Mr. Buttweiler additionally testified that he also had problems with the training he received and felt it was "not the best." Indeed, Matt Chitty, the complainant's supervisor, testified that he heard from several individuals who were dissatisfied with the training, adding that, although the complainant complained to him about the matter, he never said he felt he was being discriminated against based upon his age. In light of the foregoing, the commission agrees with the administrative law judge that any deficiencies in the training the complainant received were not shown to have been the result of discrimination based upon his age.

The commission has considered the remaining arguments made in the complainant's petition, but finds them similarly unpersuasive. For the reasons set forth above, the commission concludes that the complainant failed in his burden of establishing that he was discriminated against as alleged. The dismissal of the complaint is, therefore, affirmed.

cc: Attorney Rudolph J. Burshnic
Attorney Meredit Riccio

Editor's Note: This case has been appealed to circuit court.