



**STATE OF WEST VIRGINIA HUMAN RIGHTS COMMISSION**

215 PROFESSIONAL BUILDING  
1036 QUARRIER STREET  
CHARLESTON, WEST VIRGINIA 25301

TELEPHONE: 304-348-2616

ARCH A. MOORE, JR.  
Governor

January 8, 1986

John H. Shott, Esq.  
Shott and Johnson  
P. O. Box 873  
Bluefield, WV 24701

R. Thomas Czarnik, Esq.  
Kwass, Stone, McGhee & Feuchtenberger  
P. O. Box 1459  
Bluefield, WV 24701

RE: Marcie Neal V Valley Bank & Trust Company/ES-595-83

Dear Mr. Shott & Mr. Czarnik:

Herewith please find the Order of the WV Human Rights Commission in the above-styled and numbered case of Marcie Neal V. Valley Bank & Trust Company/ES-595-83.

Pursuant to Article 5, Section 4 of the WV Administrative Procedures Act [WV Code, Chapter 29A, Article 5, Section 4] any party adversely affected by this final Order may file a petition for judicial review in either the Circuit Court of Kanawha County, WV, or the Circuit Court of the County wherein the petitioner resides or does business, or with the judge of either in vacation, within thirty (30) days of receipt of this Order. If no appeal is filed by any party within (30) days, the Order is deemed final.

Sincerely yours,

Howard D. Kenney  
Executive Director

HDK/kpv

Enclosure

CERTIFIED MAIL/REGISTERED RECEIPT REQUESTED.

**RECEIVED**

**BEFORE THE WEST VIRGINIA HUMAN RIGHTS COMMISSION** DEC 17 1985

**W.V. HUMAN RIGHTS COMM.**

MARCIE NEAL,

Complainant,

vs.

Docket No.: ES-595-83

VALLEY BANK & TRUST COMPANY,

Respondent.

**ORDER**

On the 11th day of December, 1985, the Commission reviewed the Findings of Fact and Conclusions of Law of Hearing Examiner Charles A. Riffie, II. After consideration of the aforementioned, the Commission does hereby adopt the Findings of Fact and Conclusions of Law as its own.

It is hereby ORDERED that the Hearing Examiner's Findings of Fact and Conclusions of Law be attached hereto and made a part of this Order.

By this Order, a copy of which shall be sent by Certified Mail to the parties, the parties are hereby notified that THEY HAVE TEN DAYS TO REQUEST A RECONSIDERATION OF THIS ORDER AND THAT THEY HAVE THE RIGHT TO JUDICIAL REVIEW.

Entered this 19 day of Dec., 1985.

Respectfully Submitted,



**CHAIR/VICE-CHAIR**  
**West Virginia Human**  
**Rights Commission**

WEST VIRGINIA SUPREME COURT OF APPEALS  
FOR THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

*Approved*  
*10/29/85*  
*MRE*  
*DLSM*

MARCIE NEAL,

Complainant,

vs.

Docket No. ES-505-83

**RECEIVED**

OCT 15 1985

VALLEY BANK & TRUST COMPANY,

Respondent.

ADMINISTRATIVE DIRECTOR  
SUPREME COURT OF APPEALS

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND RECOMMENDATION**

Pursuant to a Notice issued and served upon the Complainant and Respondent, which Notice was dated May 21, 1985 and given by Russell Van Cleve, Chairperson of the West Virginia Human Rights Commission, on the Respondent through the office of the Secretary of State of West Virginia, a pre-hearing conference was held in the City Council Chambers, City Hall, Princeton, West Virginia on June 17, 1985 at 10:30 a.m., at which time the Complainant appeared by Counsel, John H. Shott, and the Respondent was not in appearance although Counsel for Respondent had previously contacted the Hearing Examiner and the Hearing Examiner had in his possession Respondent's Motion to Dismiss for reason of the Commission's issuance of a Right to Sue Letter and Complainant's institution of an action in the United States District Court for the Southern District of West Virginia at Bluefield together with a memorandum in support thereof.

Pursuant to a briefing schedule established by the Hearing Examiner, Counsel for both Respondent and Complainant have submitted memoranda in support of their respective positions, and upon review of the aforesaid briefs, inclusive of statements of the case and argument of Counsel, and there being no genuine issue of material fact, the Hearing Examiner recommends that the Commission adopt the following proposed Findings of Fact and Conclusions of Law and enter an Order in accordance with the same.

**FINDINGS OF FACT**

1. On February 8, 1983, Complainant filed a Complaint alleging an unlawful discriminatory act because of sex, female, against Respondent arising out of her termination of employment as secretary on January 13, 1983.

2. Upon a Determination Letter issued July 7, 1983 by the Compliance Manager for the West Virginia Human Rights Commission, hereinafter the "Commission", no conciliation was reached.

3. Complainant also filed a Complaint arising out of the same incident with the Equal Employment Opportunity Commission which deferred the case to the West Virginia Human Rights Commission as a "Section 706 Agency", pursuant to Title VII of the Civil Rights Act of 1964, as amended.

4. The Commission issued to Complainant a Letter of Right to Sue on August 13, 1983, and a second Letter of Right to Sue on February 16, 1984.

5. On November 26, 1984, Complainant instituted a civil action pursuant to the Civil Rights Act of 1964, as amended, and the Pregnancy Disability Act, as amended, in the United States District Court for the Southern District of West Virginia.

6. In said Federal Court action, Respondent has filed a Motion to Dismiss, alleging, along with other grounds, that the Federal Court lacked jurisdiction over the subject matter of this claim which Motion has not been ruled upon by the Federal Court.

**CONCLUSIONS OF LAW**

1. Complainant is a female person and is authorized to file a Complaint and seek relief within the meaning of the West Virginia Human Rights Act, hereinafter referred to as the "Act". West Virginia Code 5-11-1, et seq.

2. Respondent is an employer within the meaning of the Act. West Virginia Code 5-11-1, et seq.

3. If a suit is filed, under Section 13 of Chapter 5, Article 11 of the West Virginia Code, the proceedings pending before the Commission shall be deemed concluded where suit has been brought either within ninety (90) days after Complainant is given Notice of a Right to Sue or, after said ninety (90) day period, at any time during which the applicable statute of limitations has not expired. West Virginia Code 5-11-13(b).

4. Where the language of a statute is free from ambiguity, its plain meaning is to be accepted and applied without resort to interpretation. Crockett vs. Andrews, 153 W.Va. 714, 172 S.E. 2d 384.

5. The Commission gave Complainant a Notice of Right to Sue on two (2) occasions and, upon Complainant's filing of suit in the United States District Court for the Southern District of West Virginia, these proceedings before the Commission shall be deemed concluded.

#### RECOMMENDATION

THEREFORE, pursuant to the above Findings of Fact and Conclusions of Law, it is hereby RECOMMENDED that the Complaint filed in these proceedings be dismissed by the Commission, these proceedings being deemed concluded.

DATED this 11th day of October, 1985.

  
HEARING EXAMINER



COPY

STATE OF WEST VIRGINIA HUMAN RIGHTS COMMISSION

215 PROFESSIONAL BUILDING  
1036 QUARRIER STREET  
CHARLESTON, WEST VIRGINIA 25301  
TELEPHONE 304-348-2616

ARCH A. MOORE, JR.  
Governor

January 8, 1986

John H. Shott, Esq.  
Shott and Johnson  
P. O. Box 873  
Bluefield, WV 24701

R. Thomas Czarnik, Esq.  
Kwass, Stone, McGhee & Feuchtenberger  
P. O. Box 1459  
Bluefield, WV 24701

RE: Marcie Neal V Valley Bank & Trust Company/ES-595-83

Dear Mr. Shott & Mr. Czarnik:

Herewith please find the Order of the WV Human Rights Commission in the above-styled and numbered case of Marcie Neal V. Valley Bank & Trust Company/ES-595-83.

Pursuant to Article 5, Section 4 of the WV Administrative Procedures Act [WV Code, Chapter 29A, Article 5, Section 4] any party adversely affected by this final Order may file a petition for judicial review in either the Circuit Court of Kanawha County, WV, or the Circuit Court of the County wherein the petitioner resides or does business, or with the judge of either in vacation, within thirty (30) days of receipt of this Order. If no appeal is filed by any party within (30) days, the Order is deemed final.

Sincerely yours,

Howard D. Kenney  
Executive Director

HDK/kpv

Enclosure

CERTIFIED MAIL/REGISTERED RECEIPT REQUESTED.

RECEIVED

BEFORE THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

DEC 17 1985

W.V. HUMAN RIGHTS COMM.

MARCIE NEAL,

Complainant,

vs.

Docket No.: ES-595-83

VALLEY BANK & TRUST COMPANY,

Respondent.

**ORDER**


On the 11th day of December, 1985, the Commission reviewed the Findings of Fact and Conclusions of Law of Hearing Examiner Charles A. Riffie, II. After consideration of the aforementioned, the Commission does hereby adopt the Findings of Fact and Conclusions of Law as its own.

It is hereby ORDERED that the Hearing Examiner's Findings of Fact and Conclusions of Law be attached hereto and made a part of this Order.

By this Order, a copy of which shall be sent by Certified Mail to the parties, the parties are hereby notified that THEY HAVE TEN DAYS TO REQUEST A RECONSIDERATION OF THIS ORDER AND THAT THEY HAVE THE RIGHT TO JUDICIAL REVIEW.

Entered this 10 day of Dec., 1985.

Respectfully Submitted,

  
\_\_\_\_\_  
CHAIR/VICE-CHAIR  
West Virginia Human  
Rights Commission

WEST VIRGINIA SUPREME COURT OF APPEALS  
FOR THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

*OKSM*  
*10/24/85*  
*MR*

MARCIE NEAL,

Complainant,

vs.

Docket No. ES-505-83

**RECEIVED**

OCT 14 1985

VALLEY BANK & TRUST COMPANY,

Respondent.

ADMINISTRATIVE CENTER  
SUPREME COURT OF APPEALS

FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND RECOMMENDATION

Pursuant to a Notice issued and served upon the Complainant and Respondent, which Notice was dated May 21, 1985 and given by Russell Van Cleve, Chairperson of the West Virginia Human Rights Commission, on the Respondent through the office of the Secretary of State of West Virginia, a pre-hearing conference was held in the City Council Chambers, City Hall, Princeton, West Virginia on June 17, 1985 at 10:30 a.m., at which time the Complainant appeared by Counsel, John H. Shott, and the Respondent was not in appearance although Counsel for Respondent had previously contacted the Hearing Examiner and the Hearing Examiner had in his possession Respondent's Motion to Dismiss for reason of the Commission's issuance of a Right to Sue Letter and Complainant's institution of an action in the United States District Court for the Southern District of West Virginia at Bluefield together with a memorandum in support thereof.

Pursuant to a briefing schedule established by the Hearing Examiner, Counsel for both Respondent and Complainant have submitted memoranda in support of their respective positions, and upon review of the aforesaid briefs, inclusive of statements of the case and argument of Counsel, and there being no genuine issue of material fact, the Hearing Examiner recommends that the Commission adopt the following proposed Findings of Fact and Conclusions of Law and enter an Order in accordance with the same.



**FINDINGS OF FACT**

1. On February 8, 1983, Complainant filed a Complaint alleging an unlawful discriminatory act because of sex, female, against Respondent arising out of her termination of employment as secretary on January 13, 1983.

2. Upon a Determination Letter issued July 7, 1983 by the Compliance Manager for the West Virginia Human Rights Commission, hereinafter the "Commission", no conciliation was reached.

3. Complainant also filed a Complaint arising out of the same incident with the Equal Employment Opportunity Commission which deferred the case to the West Virginia Human Rights Commission as a "Section 706 Agency", pursuant to Title VII of the Civil Rights Act of 1964, as amended.

4. The Commission issued to Complainant a Letter of Right to Sue on August 13, 1983, and a second Letter of Right to Sue on February 16, 1984.

5. On November 26, 1984, Complainant instituted a civil action pursuant to the Civil Rights Act of 1964, as amended, and the Pregnancy Disability Act, as amended, in the United States District Court for the Southern District of West Virginia.

6. In said Federal Court action, Respondent has filed a Motion to Dismiss, alleging, along with other grounds, that the Federal Court lacked jurisdiction over the subject matter of this claim which Motion has not been ruled upon by the Federal Court.

**CONCLUSIONS OF LAW**

1. Complainant is a female person and is authorized to file a Complaint and seek relief within the meaning of the West Virginia Human Rights Act, hereinafter referred to as the "Act". West Virginia Code 5-11-1, et seq.

2. Respondent is an employer within the meaning of the Act. West Virginia Code 5-11-1, et seq.

3. If a suit is filed, under Section 13 of Chapter 5, Article 11 of the West Virginia Code, the proceedings pending before the Commission shall be deemed concluded where suit has been brought either within ninety (90) days after Complainant is given Notice of a Right to Sue or, after said ninety (90) day period, at any time during which the applicable statute of limitations has not expired. West Virginia Code 5-11-13(b).

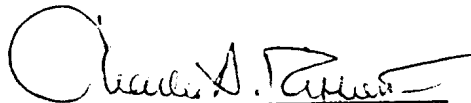
4. Where the language of a statute is free from ambiguity, its plain meaning is to be accepted and applied without resort to interpretation. Crockett vs. Andrews, 153 W.Va. 714, 172 S.E. 2d 384.

5. The Commission gave Complainant a Notice of Right to Sue on two (2) occasions and, upon Complainant's filing of suit in the United States District Court for the Southern District of West Virginia, these proceedings before the Commission shall be deemed concluded.

#### RECOMMENDATION

THEREFORE, pursuant to the above Findings of Fact and Conclusions of Law, it is hereby RECOMMENDED that the Complaint filed in these proceedings be dismissed by the Commission, these proceedings being deemed concluded.

DATED this 11th day of October, 1985.

  
HEARING EXAMINER

CERTIFICATE OF SERVICE

I Harry C. Taylor, II, hereby certify that I have this 29th day of October, 1985, mailed a true copy of the documents named in the attached letter by depositing said documents in the United States mail in properly addressed envelopes to the following persons:

Marcie Neal  
1500 Highland Avenue  
Bluefield, WV 24701

✓ John H. Shott, Esquire  
Shott and Johnson  
P.O. Box 873  
Bluefield, WV 24701

Valley Bank & Trust Company  
P.O. Box 6160  
Bluefield, WV 24701

✓ R. Thomas Czarnik, Esquire  
Kwass, Stone, McGhee & Feuchtenberger  
P.O. Box 1459  
Bluefield, WV 24701

*Harry C. Taylor, II*  
\_\_\_\_\_  
Harry C. Taylor, II

RECEIVED

BEFORE THE WEST VIRGINIA HUMAN RIGHTS COMMISSION 17 1985

W.V. HUMAN RIGHTS COMM.

MARCIE NEAL,

Complainant,

vs.

Docket No.: ES-595-83

VALLEY BANK & TRUST COMPANY,

Respondent.

ORDER

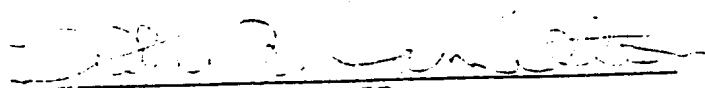
On the 11th day of December, 1985, the Commission reviewed the Findings of Fact and Conclusions of Law of Hearing Examiner Charles A. Riffie, II. After consideration of the aforementioned, the Commission does hereby adopt the Findings of Fact and Conclusions of Law as its own.

It is hereby ORDERED that the Hearing Examiner's Findings of Fact and Conclusions of Law be attached hereto and made a part of this Order.

By this Order, a copy of which shall be sent by Certified Mail to the parties, the parties are hereby notified that THEY HAVE TEN DAYS TO REQUEST A RECONSIDERATION OF THIS ORDER AND THAT THEY HAVE THE RIGHT TO JUDICIAL REVIEW.

Entered this 10 day of Dec., 1985.

Respectfully Submitted,

  
\_\_\_\_\_  
CHAIR/VICE-CHAIR  
West Virginia Human  
Rights Commission

WEST VIRGINIA SUPREME COURT OF APPEALS  
FOR THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

*Dismiss*  
*Approved*  
*10/1/85*  
*MSL*

MARCIE NEAL,

Complainant,

vs.

Docket No. ES-505-83

**RECEIVED**

OCT 1 1985

VALLEY BANK & TRUST COMPANY,

Respondent.

ADMINISTRATIVE SERVICES  
SUPREME COURT OF APPEALS

FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND RECOMMENDATION

Pursuant to a Notice issued and served upon the Complainant and Respondent, which Notice was dated May 21, 1985 and given by Russell Van Cleve, Chairperson of the West Virginia Human Rights Commission, on the Respondent through the office of the Secretary of State of West Virginia, a pre-hearing conference was held in the City Council Chambers, City Hall, Princeton, West Virginia on June 17, 1985 at 10:30 a.m., at which time the Complainant appeared by Counsel, John H. Shott, and the Respondent was not in appearance although Counsel for Respondent had previously contacted the Hearing Examiner and the Hearing Examiner had in his possession Respondent's Motion to Dismiss for reason of the Commission's issuance of a Right to Sue Letter and Complainant's institution of an action in the United States District Court for the Southern District of West Virginia at Bluefield together with a memorandum in support thereof.

Pursuant to a briefing schedule established by the Hearing Examiner, Counsel for both Respondent and Complainant have submitted memoranda in support of their respective positions, and upon review of the aforesaid briefs, inclusive of statements of the case and argument of Counsel, and there being no genuine issue of material fact, the Hearing Examiner recommends that the Commission adopt the following proposed Findings of Fact and Conclusions of Law and enter an Order in accordance with the same.

FINDINGS OF FACT

1. On February 8, 1983, Complainant filed a Complaint alleging an unlawful discriminatory act because of sex, female, against Respondent arising out of her termination of employment as secretary on January 13, 1983.

2. Upon a Determination Letter issued July 7, 1983 by the Compliance Manager for the West Virginia Human Rights Commission, hereinafter the "Commission", no conciliation was reached.

3. Complainant also filed a Complaint arising out of the same incident with the Equal Employment Opportunity Commission which deferred the case to the West Virginia Human Rights Commission as a "Section 706 Agency", pursuant to Title VII of the Civil Rights Act of 1964, as amended.

4. The Commission issued to Complainant a Letter of Right to Sue on August 13, 1983, and a second Letter of Right to Sue on February 16, 1984.

5. On November 26, 1984, Complainant instituted a civil action pursuant to the Civil Rights Act of 1964, as amended, and the Pregnancy Disability Act, as amended, in the United States District Court for the Southern District of West Virginia.

6. In said Federal Court action, Respondent has filed a Motion to Dismiss, alleging, along with other grounds, that the Federal Court lacked jurisdiction over the subject matter of this claim which Motion has not been ruled upon by the Federal Court.

CONCLUSIONS OF LAW

1. Complainant is a female person and is authorized to file a Complaint and seek relief within the meaning of the West Virginia Human Rights Act, hereinafter referred to as the "Act". West Virginia Code 5-11-1, et seq.

2. Respondent is an employer within the meaning of the Act. West Virginia Code 5-11-1, et seq.

3. If a suit is filed, under Section 13 of Chapter 5, Article 11 of the West Virginia Code, the proceedings pending before the Commission shall be deemed concluded where suit has been brought either within ninety (90) days after Complainant is given Notice of a Right to Sue or, after said ninety (90) day period, at any time during which the applicable statute of limitations has not expired. West Virginia Code 5-11-13(b).

4. Where the language of a statute is free from ambiguity, its plain meaning is to be accepted and applied without resort to interpretation. Crockett vs. Andrews, 153 W.Va. 714, 172 S.E. 2d 384.

5. The Commission gave Complainant a Notice of Right to Sue on two (2) occasions and, upon Complainant's filing of suit in the United States District Court for the Southern District of West Virginia, these proceedings before the Commission shall be deemed concluded.

#### RECOMMENDATION

THEREFORE, pursuant to the above Findings of Fact and Conclusions of Law, it is hereby RECOMMENDED that the Complaint filed in these proceedings be dismissed by the Commission, these proceedings being deemed concluded.

DATED this 11th day of October, 1985.

  
HEARING EXAMINER



STATE OF WEST VIRGINIA HUMAN RIGHTS COMMISSION

215 PROFESSIONAL BUILDING  
1036 QUARRIER STREET  
CHARLESTON, WEST VIRGINIA 25301  
TELEPHONE 304-348-2616

ARCH A MOORE, JR.  
Governor

January 8, 1986

John H. Shott, Esq.  
Shott and Johnson  
P. O. Box 873  
Bluefield, WV 24701

R. Thomas Czarnik, Esq.  
Kwass, Stone, McGhee & Feuchtenberger  
P. O. Box 1459  
Bluefield, WV 24701

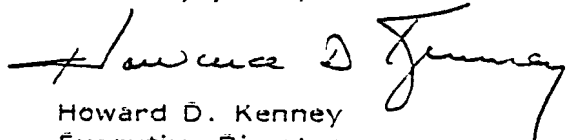
RE: Marcie Neal V Valley Bank & Trust Company/ES-595-83

Dear Mr. Shott & Mr. Czarnik:

Herewith please find the Order of the WV Human Rights Commission in the above-styled and numbered case of Marcie Neal V. Valley Bank & Trust Company/ES-595-83.

Pursuant to Article 5, Section 4 of the WV Administrative Procedures Act [WV Code, Chapter 29A, Article 5, Section 4] any party adversely affected by this final Order may file a petition for judicial review in either the Circuit Court of Kanawha County, WV, or the Circuit Court of the County wherein the petitioner resides or does business, or with the judge of either in vacation, within thirty (30) days of receipt of this Order. If no appeal is filed by any party within (30) days, the Order is deemed final.

Sincerely yours,

  
Howard D. Kenney  
Executive Director

HDK/kpv

Enclosure

CERTIFIED MAIL/REGISTERED RECEIPT REQUESTED.