

BEFORE THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

HARRY THOMAS,

COMPLAINANT,

v.

DOCKET NO. ER-384-76

WEST VIRGINIA BEVERAGE CONTROL
COMMISSION,

RESPONDENT.

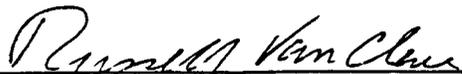
ORDER

On April 11, 1985, the Commission reviewed the proposed Findings of Fact and Conclusions of Law as set forth in the Hearing Examiner's Recommended Findings of Fact and Conclusions of Law. After consideration of the aforementioned Findings and Conclusions the Commission does hereby adopt them as their own.

It is therefore ORDERED that the Hearing Examiner's Findings and Conclusions be attached hereto and made a part of this Order. It is further ORDERED that Complainant be awarded no relief and that this case be closed.

By this Order, a copy of which is to be sent by certified mail, the parties are hereby NOTIFIED that they have ten days to request reconsideration of this Order and that they have the right to judicial review.

Entered this 8th day of May, 1985.



RUSSELL VAN CLEVE, CHAIR
WEST VIRGINIA HUMAN RIGHTS
COMMISSION

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HARRY THOMAS,

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DOCKET NO. ER-384-76

WEST VIRGINIA BEVERAGE CONTROL
COMMISSION,

Respondent.

**EXAMINER'S RECOMMENDED FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

This case came on for hearing on January 3, 1985. The hearing was held at the Conference Room of the West Virginia Human Rights Commission, 1036 Quarrier Street, Charleston, West Virginia. The panel consisted of Theodore R. Dues, Jr., Hearing Examiner, and the Honorable Russell Van Cleve, Hearing Commissioner.

The Complainant appeared in person. The Respondent was represented by Gene Hal Williams, Deputy Attorney General, and the West Virginia Human Rights Commission appeared by its counsel, Roxanne Rogers.

FINDINGS OF FACT

1. The Complainant, Harry Thomas, is a black male.
2. The Complainant was hired by the Respondent on July 23, 1974.

3. Complainant was assigned general duty responsibilities and worked at several stores concluding with the Ohio Avenue store.

4. That sometime in early January, 1976, the Respondent caused an investigation to be held of the Ohio Avenue store due to the high amount of shortages in inventory and cash.

5. Two persons at that time employed at the Ohio Avenue store, more particularly, Fontaine Allen and Art Stull, confessed to having removed inventory from the store for personal use and consuming the same on the Respondent's premises.

6. That during that investigation the Complainant was interviewed and during said interview did confess to the consumption of liquors on the Respondent's premises.

7. Subsequent to the Complainant's interview he orally resigned from employment with the Respondent.

8. Pursuant to the Complainant's oral resignation, the Respondent notified the Civil Service Commission for the State of West Virginia that the Complainant had resigned from its employment as of January 19, 1976.

CONCLUSIONS OF LAW

1. The West Virginia Human Rights Commission has jurisdiction over the subject matter and the parties in this matter.

2. As in all cases, the Complainant bears the burden of proving the allegations of his complaint that the Respondent discriminated against him because of his race in its decision to discharge him on January 19, 1976

3. The Complainant did not establish a prima facie case that he in fact was discharged from his employment on January 19, 1976.

4. The credible evidence in this case indicates that the Complainant in fact did confess to the consumption of alcoholic beverages on the Respondent's premises and that he later resigned from that employment.

5. It is therefore recommended that the Respondent be found not liable for a violation of the West Virginia Human Rights Act for reasons of racial discrimination in the separation of the Complainant from his employment on January 19, 1976.

6. Accordingly, it is recommended that the Complainant be awarded no relief in this matter.

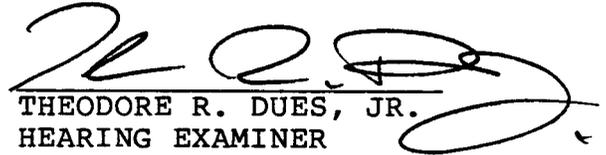
RELIEF

Judgement for the Respondent.

The parties are hereby given notice that they have fifteen (15) days from the date of entry of this order to submit exceptions to this order to the Chairperson of the Commission.

DATED: JANUARY 7, 1985

ENTER:


THEODORE R. DUES, JR.
HEARING EXAMINER

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