



MIKE PENCE, *Governor*
JAMAL L. SMITH, *Executive Director*

ICRC No.: EMha13091493
[REDACTED]

ECHEZONA ECHEAZU,
Complainant,

v.

UNITED AUTO WORKERS LOCAL 5,
Respondent.

NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission (“Commission”) pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice occurred in this instance. 910 IAC 1-3-2(b).

On September 25, 2013, Echezona Echeazu (“Complainant”) filed a Complaint with the Commission against United Auto Workers Local 5 (“Respondent”) alleging discrimination on the basis of national origin in violation of the Indiana Civil Rights Law (Ind. Code § 22-9, *et seq.*) [REDACTED]

Accordingly, the Commission has jurisdiction over the parties and the subject matter of this Complaint.

An investigation has been completed. Both parties have had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Deputy Director now finds the following:

The issue presented to the Commission is whether Respondent was denied union representation because of his national origin and / or disability. In order to prevail, Complainant must show that: (1) he is a member of a protected class; (2) he was qualified to receive union representation; (3) he was denied union representation; and (4) similarly-situated union employees of another national origin or without impairment were treated more favorably under similar circumstances.

By way of background, Complainant was hired on or about January 9, 2010 as a DC Operator. During the course of his employment, on or about May 15, 2013, Complainant alleges he left work to go to the hospital because of his disability. Upon his return, Complainant received “attendance points” for leaving work. Two days later, on or about May 17, 2013, Complainant alleges that his supervisor sent him home early because he was unable to work inside of a container that would



have triggered his disability. It is unclear whether Complainant was awarded attendance points for the May 17, 2013 incident. Nonetheless, Complainant attempted to file a grievance with Respondent on or about July 31, 2013, alleging that his employer should have excused his absences as they were related to his disability rather than giving him attendance points. However, Complainant alleges that Respondent would not accept his grievance, stating that it was not an issue he could grieve.

There is sufficient evidence to believe that Complainant is a member of a protected class by virtue of his national origin, African, and disability; further, there is sufficient evidence to believe that he was qualified to receive union representation. According to the evidence submitted to the Commission, Complainant was denied representation and he alleges that similarly-situated union employees of another national origin or without impairment were treated more favorably under similar circumstances. While Respondent was given ample opportunity to rebut Complainant's assertions, it has failed to avail itself of the ability to do so. Respondent failed to respond to Complainant's repeated requests for information and equally failed to uphold its burden of production to refute Complainant's assertions. As such, based upon the available evidence, there is probable cause to believe that an unlawful discriminatory practice may have occurred in this instance.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. Ind. Code §22-9-1-18, 910 IAC 1-3-5. The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission within twenty (20) days of receipt of this Notice, or the Commission's Administrative Law Judge will hear this matter. Ind. Code § 22-9-1-16, 910 IAC 1-3-6.

April 1, 2014
Date

Akia A. Haynes
Akia A. Haynes, Esq.,
Deputy Director
Indiana Civil Rights Commission