THE INDIANA CIVIL RIGHTS COMMISSION
311 West Washington Street
Indianapolis, Indiana 46204

STATE OF INDIANA)
) SS
COUNTY OF MARION)

RICHARD EUGENE CULLEY,
Complainant,

DOCKET NO. EMha79020151

vs.

STATE OF INDIANA REHABILITATION SERVICES, AND STATE OF INDIANA DEPARTMENT OF ADMINISTRATION, PERSONNEL DIVISION,
Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

Comes now R. Davy Eaglesfield, III, Hearing Officer for the Indiana Civil Rights Commission ("ICRC"), and enters his Recommended Findings of Fact, Conclusions of Law, and Order (Hereinafter "the recommended decision"), which recommended decision is in words and figures as follows:

(H.I.)

And comes now Respondent, Indiana Rehabilitation Services ("Rehabilitation Services"), by counsel, and files its Objections to Recommended Findings of fact, Conclusions of Law and Order of Hearing Officer, which Objections are in words and figures as follows:

(H.I.)

And comes now ICRC and holds its Hearing on Objections on October 15, 1981 where arguments relating to the Objections filed by Rehabilitation Services were heard from counsel for Rehabilitation Services and counsel for Complainant Richard Eugene Culley ("Culley").

(H.I.)

And comes now James A. Lang, Chairman of ICRC, and asked the reason that the recommended decision had neither been mailed to, nor received by, counsel for Culley and ordering that staff of ICRC mail said recommended decision, which Order is in words and figures as follows:

(H.I.)

And comes now Karen Fowler-Williams, Director of ICRC and files her Notice of Mailing of Copy of Recommended Findings of Fact, Conclusions of Law, and Order, which Notice is in words and figures as follows:

(H.I.)

And comes now Culley, by counsel and files his Objections to Recommended Findings of Fact, Conclusions of Law, and Order which Objections are in words and figures as follows:

(H.I.)

And comes now ICRC and holds its Hearing on Objections on January 21, 1982 where arguments relating to the Objections filed by Culley were heard from counsel fro Culley and counsel for Rehabilitation Services.

And comes now ICRC, having considered the above and being duly advised in the premises, and finds and rules as follows:

1. A party objecting to a recommended decision of a Hearing Officer has the burden of demonstrating some error on the part of the Hearing Officer.

2. Culley's Objections to Recommended Findings of Fact, Conclusions of Law and Order of Hearing Officer should be, and same hereby are, overruled.

3. ICRC hereby adopts as its own the Findings of Fact, Conclusions of Law and Order recommended by the Hearing Officer in his recommended decision, a copy of which is attached hereto and incorporated by reference herein.

Dated: February 12, 1982

THE INDIANA CIVIL RIGHTS COMMISSION
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RICHARD EUGENE CULLEY,
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DOCKET NO. EMha79020151

vs.

STATE OF INDIANA REHABILITATION SERVICES, AND STATE OF INDIANA DEPARTMENT OF ADMINISTRATION, PERSONNEL DIVISION,
Respondent.

RECOMMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

This cause of action came on for hearing through the Indiana Civil Rights Commission, R. Davy Eaglesfield, III, Hearing Officer, on July 30, 1981. Complainant, Richard Eugene Culley appeared in person and by counsel. Respondent State of Indiana, Rehabilitation Services, appeared by its duly authorized representatives and by counsel. State of Indiana, Department of Administration, is dismissed as regards any liability in this action and is retained solely because it is a necessary party to effect the remedy herein stated below. The Hearing Officer having duly heard and considered the evidence and arguments of counsel, being duly advised in the premises, now enters his Recommended Findings of Fact, Conclusions of Law, and Order as follows:

FINDINGS OF FACT

1. Complainant Richard Eugene Culley is a handicapped person as defined by IC 22-9-1 *et. seq.*

2. That in 1977, Richard Culley took a State of Indiana, Department of Administration, Personnel Division, merit test an scored at 86.25 on said test.

3. Subsequent to this, Richard Culley applied for the position of Disability Claims Adjudicator V and received an interview with the Rehabilitation Services in 1977. Said Respondent, however, failed to hire the petitioner based upon his handicap.

4. The Respondent next applied for the position Disability Claims Adjudicator V with Rehabilitation Services in 1979. Based upon the previous 1977 interview, the Complainant was not hired. The reason defendant was not hired was because of his handicap.

5. On February 12, 1979, after Respondent's rejection of employment, Stephanie Abrams of the Indiana Rehabilitation Services signed a certificate stating that: "It is the opinion of the certifying representative that the Complainant's disability would not prevent the performance of the duties of a Claims Adjudicator".

6. The Respondent Indiana Rehabilitation Services is an employer as defined by IC 22-9-1-3(h).

7. The petitioner was qualified for the position of Claims Adjudicator V and was discriminatorily denied this position because of his handicap, *i.e.,* blindness.

8. Any Conclusions of Law which should be deemed a Findings of Fact is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Law is with the Complainant and against the Respondent Indiana Rehabilitation Services and Complainant is entitled to judgment in his favor.

2. The Indiana Civil Rights Commission has jurisdiction of the subject matter, of the parties, and of the case.

3. The Indiana Rehabilitation Services discriminated against Complainant by denying him an opportunity to perform the duties of Claims Adjudicator V. This discrimination was based upon handicap.

ORDER

This cause came on for hearing before the Indiana Civil Rights Commission, R. Davy Eaglesfield, III, Hearing Officer, and the Commission having duly entered its Findings of Fact and Conclusions of Law, it is ORDERED, ADJUDGED AND DECREED by the Commission that judgment is hereby entered in favor Complainant and against Respondent;

Further, it is ORDERED, ADJUDGED AND DECREED that Respondent Indiana Rehabilitation Services offer to Complainant employment as a Disability Claims Adjudicator V. This offer of employment shall be made to Complainant by letter and shall be made to Complainant whenever the first vacancy after the date of this signed order occurs.

It is further ORDERED, ADJUDGED AND DECREED that Complainant shall have ten (10) days to notify the Respondent whether he accepts the employment offer for the position of Claims Adjudicator V. If Complainant, within ten (10) days of receiving the offer of employment rejects or fails to respond to said offer, then Respondent Indiana Rehabilitation Services shall be free to fill the vacancy and cancel any further offers of employment to the Complainant.

It is further ORDERED, ADJUDGED AND DECREED that for purposes of hiring the Complainant under this Order that Complainant's score on the Department of Administration Personnel Division merit test, which qualified Complainant as eligible for the position of Claim Adjudicator V, shall be considered valid and qualifying the Complainant as eligible for the next vacancy which shall occur after the date of this Order, for the position of Claims Adjudicator V.

It is further ORDERED, ADJUDGED AND DECREED that except for the duty of the State of Indiana Department of Administration Personnel Division certifying the Complainant qualified for the first vacancy for the position of Claims Adjudicator, occurring after the date of this Order, said Respondent is hereby dismissed as a party in this action.

Dated: September 1, 1981