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

STATE OF INDIANA)
)
COUNTY OF MARION)

LAURA FISHER,
Complainant,

DOCKET NO. PAra81050452

vs.

INDIANAPOLIS PUBLIC TRANSPORTATION CORP.,
Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

Comes now Robert D. Lange, 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 not any party filing objections to said recommended decision within the ten (10) day period prescribed by IC 4-22-1-12 and 910 IAC 1-12-1(B).

And comes now ICRC, having considered the above and being duly advised in the premises and adopts as its final Findings of Fact, Conclusions of Law, and Order recommended by the Hearing Officer in the recommended decision, a copy of which is attached hereto and incorporated by reference herein.

Signed: August 20, 1982

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RECOMMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

A hearing was held before the undersigned Hearing Officer for the Indiana Civil Rights Commission ("ICRC") on June 1, 1982. Complainant Laura Fisher ("Fisher") was present and was represented by counsel, Mr. Bobby Potters. Respondent Indianapolis Public Transportation Corporation ("IPTC") was represented by counsel, Mr. William F. /Diehl. Also present for IPTC was Thomas Weakly, its Personnel Director. Evidence and argument was presented by both parties and the case was taken under advisement.

Having considered the evidence introduced at the hearing, both testimonial and documentary, and the arguments of counsel, and being duly advised in the premises, the Hearing Officer now recommends that ICRC enter the following Findings o Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Fisher is a Negro (or "black") who has, at all material times, resided in the City of Indianapolis.

2. IPTC is a municipal corporation which provides transportation on buses, or coaches, to the general public in Marion County and in portions of some contiguous counties.

3. This action arises out of an incident which occurred on April 11, 1981 when Fisher was required to get off of IPTC's Crosstown Metro Bus.

4. Fisher's complaint was filed with ICRC on May 5, 1981. It alleged unlawful discrimination because of race and/or sex in

a. Being required to get off the bus; and

b. That IPTC's driver stated that he was not beholding to no black woman.

5. After an investigation, ICRC's Director entered a Finding that there was No Probable Cause to believe that Fisher's being required to leave the bus was an unlawful act of discrimination but that there was Probable Cause to believe that some sort of racial comment had been made which constituted a violation of the Indiana Civil Rights Law.

6. Fisher filed a request for reconsideration of the No Probable Cause portion of said Finding and Commissioner Everett J. Coleman was appointed to review and rule on said request.

7. Commissioner Coleman entered an Order on November 20, 1981 sustaining the Director's Finding.

8. Fisher offered no evidence which could form the basis of a finding that her ejection from the bus deprived her of equal opportunities because of race and/or sex. While Fisher did testify that lots of people drank and ate on the bus without being kicked off, there is no evidence of the race and sex of those people.

9. On April 11 1981, Fisher went to the 500 Liquor store at 30th Street and Sherman Ave. in Indianapolis and purchased a Pina Colada, which she took with her, along with a paper cup, as she boarded the crosstown bus headed to Eastgate Shopping Center. Fisher's destination was the Marriott Inn on East 21st where she was employed.

10. Fisher took a seat a couple of seats behind the driver, Richard M. Froelich ("Froelich"), a Caucasian.

11. Froelich noticed Fisher drinking from the paper cup and told her she must throw it off the bus. (There was, and may still be, a city ordinance prohibiting the drinking of any beverage on an IPTC bus.)

12. At this point, the testimony of Fisher and Froelich as to what happened diverges. Their testimony is summarized below:

a. Fisher testified that she poured the drink out the window but that Froelich nevertheless told her she must get off the bus. She contends that as she left, he told her "I'm not beholdin(g) to no Black woman."

b. Froelich testified that Fisher's response to his statement that she must throw the drink off the bus was to drink some and then to pour more into the cup. Froelich then called the Indianapolis Police Department ("IPD") for assistance and informed his supervisor by radio of these events. Fisher then elected to leave the bus and Froelich cancelled the call to IPD.

13. Having considered the testimony of both Fisher and Froelich, observed their demeanor as witnesses, and considered the other evidence admitted the Hearing Officer can find no basis for determining which is the more credible.

a. Neither version is inherently unlikely.

b. Complainant's Exhibit 4, a Customer Service Report summarizing a telephone complaint by a person identified as Elsondra Hopkins ("Hopkins") indicates that Hopkins asserted that a driver (apparently Froelich) used some racial slurs on May 2, 1980. This exhibit admitted over objection, is of no probative value since

i. What Hopkins considers a racial slur cannot be determined.

ii. It is hearsay.

CONCLUSIONS OF LAW

1. ICRC has jurisdiction over the subject matter and the parties.

2. Fisher is an individual and is, therefore, a "person". IC 22-9-1-3(a), cf. 910 IAC 1-1-1-(A).

3. IPTC is either a corporation or an organized group of persons and is therefore a "person". *Id.*

4. IPTC is a “public accommodation”, IC 22-9-1-3(m), cf. 910 IAC 1-1-1-1(M).

5. Complainant has the burden of proving facts which constitute an unlawful discriminatory practice. Fisher has not met this burden.

6. If, on all the evidence, ICRC finds that a person has not committed a violation of the Indiana Civil Rights Law, IC 22-9-1, it must dismiss the complaint. IC 22-9-1-6(k) (3).

7. Any Finding of Fact which should have been deemed a Conclusion of Law is hereby adopted as such.

ORDER

1. Fisher’s complaint should be, and the same hereby is, dismissed.

Dated: July 2, 1982