



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

ICRC No.: EMha13071345

EEOC No. [REDACTED]

[REDACTED]

Complainant,

v.

ALCOA/ALUMINUM,
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 July 23, 2013, [REDACTED] (“Complainant”) filed a Complaint with the Commission against Alcoa/Aluminum (“Respondent”) alleging discrimination on the basis of disability in violation of the Indiana Civil Rights Law (Ind. Code § 22-9, *et seq.*) and Title I of the Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101, *et seq.*) 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 Complainant was denied a reasonable accommodation and forcibly placed on medical leave because of his disability. In order to prevail, Complainant must show that: (1) he has a disability as defined under the law; (2) Respondent knew or should have known of Complainant’s need for a reasonable accommodation; (3) an accommodation exists that would permit Complainant to enjoy equal benefits and privileges of employment; and (4) Respondent unreasonably delayed or denied Complainant’s request for a reasonable accommodation. It is evident that Complainant has a disability as defined under the law; moreover, Respondent admits that it was aware of Complainant’s impairment and need for a reasonable accommodation. Nonetheless, Respondent failed to engage in the interactive process with Complainant and unreasonably denied Complainant’s request for an accommodation.

By way of background, Respondent hired Complainant as a Finish Machine Operator in the Extrusion Department on or about December 11, 1995. At all times relevant to the Complaint, Respondent was aware of Complainant’s visual impairment and work restriction prohibiting him from operating mobile equipment. During the course of Complainant’s tenure with Respondent,



his duties included operating a gantry crane designed to move large aluminum extrusions weighing several thousand pounds. Despite meeting Respondent's legitimate business expectations for over a decade without a safety violation, Respondent determined that Complainant's job duties violated his work restrictions in June 2013. Specifically, Respondent determined that operating the crane to move the aluminum extrusions "presented a significant risk of substantial harm to [Complainant,] his co-workers, structures, and equipment if he misjudged the object's position and caused a collision or dropped a load." Ultimately, Respondent suspended Complainant and placed him on medical leave in June 2013. Despite Respondent's assertions, there is insufficient evidence to support its assertions. No evidence has been submitted by Respondent or uncovered during the course of the investigation to show that Respondent entered into the interactive dialogue process with Complainant in an attempt to preserve his employment. Moreover, no evidence has been submitted by Respondent or uncovered by the Commission to show that Respondent attempted to ascertain an accommodation which would have assisted Complainant in maintaining his employment. Rather, Respondent simply placed Complainant on indefinite disability leave. As such and based upon the aforementioned, probable cause exists to believe that a discriminatory practice occurred as alleged.

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 20, 2015

Date

Akia A. Haynes

Akia A. Haynes, Esq.

Deputy Director

Indiana Civil Rights Commission