K.K. v. G.S. c.o.b Hair Pasion - January, 2013

The complainant filed a complaint against her former employer under section 14 of *The Human Rights Code* alleging her employer discriminated against her in her employment on the basis of her disability (bi-polar depression) and by failing to accommodate her special needs based on her disability and instead, terminated her employment.

The complainant alleged that while her employer had been a good friend to her and had accommodated her disability during her employment, she failed to reasonably accommodate her disability when she ultimately terminated her employment during a period of hospitalization. The respondent argued that it would have been an undue hardship to continue to employ the complainant given that her performance had declined and she was losing business.

The Adjudicator found that the complainant's disability impacted her performance sufficiently to conclude that it was an indirect or motivating factor in the respondent's decision to terminate her employment. The Adjudicator found that the respondent satisfied the procedural and substantive requirement to accommodate the complainant's disability during the course of her employment, but failed to show that it was justified in terminating the complainant's employment when it did.

Remedy: The complainant was awarded $2000 in general damages for injury to her dignity, self respect and feelings. The Adjudicator declined to make an award for any other financial losses because she did not have sufficient evidence that the complainant could have returned to perform the essential duties of her position. The Adjudicator was satisfied that the respondent was generally aware of its duty to accommodate and found it would serve no "useful purpose" to require the respondent to develop an accommodation policy.

The Adjudicator granted the Commission's request to identify the complainant by her initials only given the sensitive nature of the information disclosed at the hearing.