

STATE OF INDIANA
CIVIL RIGHTS COMMISSION

DOCKET NO. EMra06120572
EEOC NO. 24FA700113

STEPHEN WHITFIELD,
Complainant,

v.

VILLAGER RESTAURANT, INC.;
DOW S. HENSON; and KAREN
HENSON;

Respondents.

FILE DATED

AUG 28 2009

Indiana State Civil Rights Commission

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

On June 5, 2009, Robert D. Lange, Administrative Law Judge ("ALJ") for the Indiana Civil Rights Commission ("ICRC"), entered his Proposed Findings Of Fact, Conclusions Of Law, And Order ("the proposed decision").

No objections have been filed to the ICRC's adoption of the proposed decision.

Having carefully considered the foregoing and being duly advised in the premises, the ICRC hereby adopts as its own the findings of fact, conclusions of law, and order proposed by the ALJ in the proposed decision, a copy of which is attached hereto and incorporated herein by reference.

INDIANA CIVIL RIGHTS COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER


COMMISSIONER

Dated: 28 August 2009

To be served by first class mail on the following parties and attorneys of record:

Stephen Whitfield
1064 Plum Street
French Lick, IN 47432

Villager Restaurant, Inc.
c/o Karen Henson
State Road 56
P.O. Box 128
West Baden, IN 47469

McINTYRE & SMITH
BY: David A. Smith
Attorneys for Respondent Villager Restaurant, Inc.
East Side Square
1522 "I" Street
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Dow S. Henson
P.O. Box 128
West Baden Springs, IN 47469-0128

Karen Henson
P.O. Box 128
West Baden Springs, IN 47469-0128

and to be personally served on the following attorney of record:

Michael C. Healy, Esq.; Staff Counsel
Indiana Civil Rights Commission
Attorney for Complainant Stephen Whitfield
Indiana Government Center North
100 North Senate Avenue, Room N103
Indianapolis, IN 46204-2255

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STEPHEN WHITFIELD,
Complainant,

FILE DATED

v.

JUN 05 2009

VILLAGER RESTAURANT, INC.;
DOW S. HENSON; and KAREN
HENSON;

Indiana State Civil Rights Commission

Respondents.

**PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

On June 4, 2009, Complainant, Stephen L. Whitfield ("Whitfield"), and Respondent Villager Restaurant, Inc. ("Villager"), each by counsel, filed their Joint Motion To Dismiss.

Having carefully considered the foregoing and being duly advised in the premises, the undersigned Administrative Law Judge for the Indiana Civil Rights Commission ("ICRC") proposes that the ICRC enter the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

1. Whitfield' complaint alleges that on November 10 of 2006, he was constructively discharged by Villager as a result of racial harassment. COMPLAINT OF DISCRIMINATION (December 21, 2006).
2. Respondents deny Whitfield's claim of unlawful discrimination. ANSWER (February 22, 2007).

3. The Joint Motion is expressly motivated by settlement.
4. There is no evidence of fraud, coercion, duress, or any other reason not to approve of the requested dismissal.
5. Any Conclusion Of Law that should have been deemed a Finding Of Fact is hereby adopted as such.

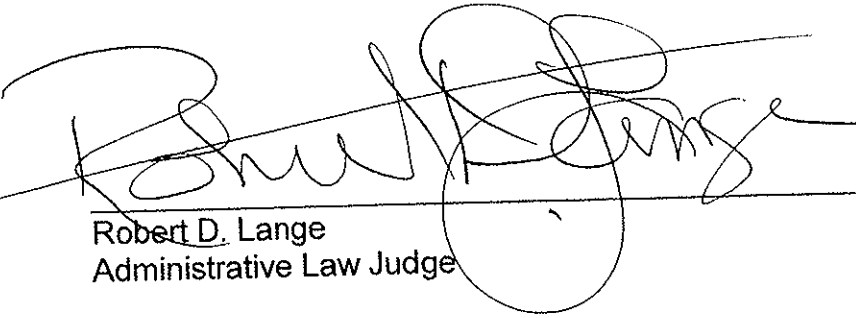
CONCLUSIONS OF LAW

1. The ICRC has jurisdiction over the subject matter and the parties.
2. Settlement is a favored resolution and should be encouraged.
3. Administrative review of this proposed decision may be obtained by the filing of a writing identifying with reasonable particularity each basis of each objection within 15 days after service of this proposed decision. IC 4-21.5-3-29(d).
4. Any Finding Of Fact that should have been deemed a Conclusion Of Law is hereby adopted as such.

ORDER

1. The Joint Motion To Dismiss is **GRANTED**.
2. The Final Pre-Hearing Conference that had been scheduled for June 29, 2009 and the Hearing that had been scheduled for July 15 and 16, 2009 are **CANCELLED**.
2. Whitfield's complaint is **DISMISSED**, with prejudice.

Dated: 05 June 2009


Robert D. Lange
Administrative Law Judge

To be served by first class mail this 5th day of June, 2009 on the following parties and attorneys of record:

Stephen Whitfield
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French Lick, IN 47432

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and to be personally served this 5th day of June, 2009 on the following:

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Indiana Civil Rights Commission
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