State of Connecticut
Commission on Human Rights and Opportunities
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August 14, 2019

CHRO ex rel. Leonicio W. Tineo v. Smart Home Preservation CHRO No. 1730253 Fed No. 16a201700283.

FINAL DECISION RE HEARING IN DAMAGES

Dear Complainant/Respondent/Commission:

Transmitted herewith is a copy of the Presiding Referee's Final Decision in the above captioned complaint.

The decision is being sent via email to the commission, complainant and respondent's attorney.

Very Truly yours,

Kimberly D. Morris
Secretary II

cc.

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Elissa T. Wright, Presiding Human Rights Referee

State of Connecticut
Commission on Human Rights and Opportunities
Office of Public Hearings

Commission on Human Rights and Opportunities ex rel. Leoncio W. Tineo, Complainant

CHRO Case No. 1730253

v.

Smart Choice Home Preservation, Respondent

August 14, 2019

Final Decision
Hearing on Damages after the Entry of an Order of Default

I
Procedural Background

On November 7, 2016, the complainant, Leoncio W. Tineo (complainant), whose address is 35 Birch Street, Waterbury, Connecticut, filed an employment discrimination complaint (complaint) with the Connecticut Commission on Human Rights and Opportunities (commission) alleging that his employer, Smart Choice Home Preservation (respondent), discriminated against him because of his religion (Christianity), ancestry (Hispanic), and national origin (Dominican Republic) in violation of General Statutes §§ 46a-60 (a) (1) and 46a-60 (a) (4), [1] and Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2, as enforced through General Statutes § 46a-58 (a). Specifically, the complaint alleges that the complainant's employment with the respondent was summarily terminated because of his protected status and in retaliation for his previous opposition to discrimination. The respondent's business address is 100 Lawrence Street, Nanuet, New York.

On November 10, 2016, the commission caused to be served notice of the complaint on the respondent through Liba Miller, of the respondent's Human Resources Department, and Golda Wollner, shareholder and a director of the respondent, by electronic mail and certified mail, and on the Secretary of the State of Connecticut by certified mail (CHRO Ex. 2). The notices to the respondent were returned unclaimed (CHRO Ex. 2). The notice sent to the Secretary of the State was rejected as noncompliant with statutory procedures (CHRO Ex. 3). On November 4, 2016, November 7, 2016, and November 10, 2016, the commission again sent notice of the complaint to the respondent by electronic mail (CHRO Ex. 3). On December 1, 2016, the commission again served notice of the complaint on Office of the Secretary of the State, which on December 14, 2018, accepted the writs filing (CHRO Ex. 3). The respondent failed to answer the complaint. On March 28, 2017, the commission requested a default order from the commission's executive director, Tanya A. Hughes, because of the respondent's failure to answer the complaint (CHRO Ex. 3). A copy of the request for a default order was sent to the respondent by certified mail (CHRO Ex. 3). On June 5, 2017, the commission's executive director entered a default order against the respondent for failing to answer the complaint (CHRO Ex. 5). The default order indicates that a copy

[1] Effective October 1, 2017, General Statutes §§ 46a-60 (a) (1) and 46a-60 (a) (4) were recodified as §§ 46a-60 (b) (1) and 46a-60 (b) (4). When the complaint was filed, the statutory citations were §§ 46a-60 (a) (1) and 46a-60 (a) (4). To avoid confusion, the references herein will be to the citations in effect at the time of the complaint's filing. *Angelsea Productions, Inc., v. Commission on Human Rights & Opportunities*, 236 Conn. 681, 683, n. 1 (1996).

of the order was mailed to the respondent on the same date. On September 21, 2017, the Office of Public Hearings sent a notice of hearing on damages to the respondent by electronic mail and certified mail (CHRO Ex. 5). A copy of the June 5, 2017 default order was enclosed with the notice of the hearing. The notice sent by certified mail was returned unclaimed (CHRO Ex. 5).

On January 11, 2018, a hearing on damages was held to determine the relief necessary to eliminate the discriminatory practice and make the complainant whole. General Statutes § 46a-83a (i) and §§ 46a-54-46a (e) and 46a-54-78a (b) (5) of the Regulations of Connecticut State Agencies. The complainant and the commission appeared to prosecute the action. The respondent did not appear.

In a hearing on damages upon default, the hearing is limited to the relief necessary to eliminate the discriminatory practice and make the complainant whole. General Statutes § 46a-83 (j); Regs., Conn. State Agencies § 46a-54-88a (b). The default admits the material facts that constitute the cause of action alleged in the complaint, and entry of a default, when properly made, conclusively determines the liability of the respondent without the need for further proof. Regs., § 46a-54-86a (b).

II
Findings of Fact

After conducting a duly scheduled and noticed hearing, and based upon a review of the complaint, exhibits, and transcript, and an assessment of the credibility of the witness, the following relevant facts are found.[2]

1. All procedural notices and jurisdictional prerequisites have been satisfied and this matter is properly before this presiding officer to hear the matter and render a decision (CHRO Exs. 1-5, Tr. 7-12).
2. The material facts alleged in the complaint are deemed established as a result of the entry of the default order. Additional facts are deemed to be established based on the complainant's testimony at the hearing on damages and the exhibits admitted into evidence. These additional findings of fact will be limited to those that add relevant detail to the factual allegations contained in the complaint.
3. The material factual allegations of the complaint affidavit, legally incorporated and accepted for the purpose of establishing liability, can be summarized as follows. The complainant was employed by the respondent as a field operator from July 15, 2015 until August 31, 2016, on which date the respondent summarily fired the complainant at its New York office. From the time of the complainant's hire until a short time before the respondent discharged him, the complainant worked full-time, six days a week from Monday through Saturday. Shortly before the complainant was terminated, the respondent informed him that he needed to be available to work on Sundays, instead of Saturdays. The complainant objected to working on Sundays because of his religious practice and beliefs. On August 30, 2016, the respondent instructed the complainant to report to the respondent's New York headquarters in his assigned company vehicle. Upon his arrival, the complainant was discharged.

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[2] References to testimony in the transcript are designated as "Tr.", followed by the page number. The commission's exhibits are designated as "CHRO Ex.", followed by the exhibit number. References to the complaint are designated as "Complaint", followed by the paragraph number.

4. When the complainant requested that he be allowed to continue to have Sundays off from work so that he could attend church, the respondent refused his request for a religious accommodation. The respondent also told him that he would no longer have a job on Tuesdays and Thursdays (Tr. 23). [3]
5. When he was hired, the complainant's rate of pay with the respondent was $12.50 per hour (Tr. 19).
6. Prior to being terminated, the complainant's rate of pay with the respondent was $12.75 per hour (CHRO Ex. 8). [4]
7. The respondent did not pay the complainant at the overtime pay rate for hours worked in excess of 40 hours worked in a week. Throughout the tenure of his employment with the respondent, the complainant was paid at his regular hourly rate for each hour of overtime he worked (Tr. 19).
8. In the calendar year 2015, the complainant reported $18,722 in wages from the respondent (CHRO Exs. 6, 7, 8).
9. In the calendar year 2015, the complainant worked for the respondent from July 15, 2015, through December 31, 2015, or about 24 weeks.
10. In the calendar year 2016, the complainant reported $23,290.37 in wages from the respondent (CHRO Exs. 6, 7, 8).
11. In the calendar year 2016, the complainant worked for the respondent from January 1, 2016, through August 31, 2016, or nearly 35 weeks.
12. The termination of his employment took the complainant by surprise and made him feel desperate. His work record with the respondent had been satisfactory. During his employment with the respondent, he had never received any discipline or warnings for poor performance (Complaint ¶ 11, Tr. 29).
13. The respondent terminated the employment of several of the complainant's co-workers on August 31, 2016, in the same manner (Tr. 29-32).
14. After the termination of his employment with the respondent on August 31, 2016, the complainant was unable to pay bills, rent, or provide financial support for eight of his ten children (Tr. 32-34).
15. When complainant could no longer afford to pay the rent on his apartment, in November 2016 he moved in with a friend, Nefi Morales, to whom he pays $500 a month in rent Tr. 33-34).
16. The termination of his employment with the respondent caused the complainant to experience sleeplessness (Tr. 34).
17. The complainant testified that his blood pressure skyrocketed, and he was placed on medication after going to the hospital (Tr. 34).
18. On November 31, 2016, the complainant suffered a stroke and was taken to Yale-New Haven Hospital where he was hospitalized for sixteen days (CHRO Ex. 11, Tr. 34-37).

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[3] The timing of the changes in the complainant's work schedule is unclear. The affidavit of complaint alleges that a short time before the respondent discharged him, the respondent required the complainant to work on Sundays, instead of Saturdays. The complainant testified that the change in his work schedule, which also included the reduction of his work schedule from six days a week (Monday through Saturday) to three days a week (Monday, Wednesday, and Friday, with Tuesday, Thursday, and weekends off) occurred in April of 2016 (Tr. 19, 22-24). The record is devoid of evidence, any specific indicia, that could enable me to ascertain what the impact on the complainant's earnings from the reduction in his work hours was, or when it actually occurred.

[4] There is no evidence in the record of the date when the respondent increased the complainant's hourly wage from $12.50 to $12.75.

19. Damage from the stroke included permanent impairment to the left side of the complainant's body (Tr. 35).
20. Upon his release from Yale-New Haven Hospital following the stroke, his doctor told him that he would never be able to return to work (Tr. 37).
21. After his stroke, the complainant qualified to receive Social Security Disability Insurance (SSDI) benefits, beginning on September 1, 2017. The complainant collects SSDI benefits of $914 a month (CHRO Ex. 12, Tr. 37-38).
22. The complainant received a total of $7,008.00 in unemployment compensation benefits in 2016, retroactive to the date of his termination (CHRO Ex. 9, Tr. 39-41).
23. Following his termination, the complainant looked for employment with the assistance of the Connecticut Department of Labor's Work Education Services Program (CHRO Ex. 10, Tr. 41-44).
24. The complainant planned to enroll in a Department of Labor plumbing course to learn a trade. However, before he could do so, he suffered a stroke (CHRO Ex. 10, Tr. 41-44).
25. The complainant did not seek mental health treatment for emotional distress after the termination of his employment and he did not take medication for anxiety (Tr. 32-33, 44-45).

III
Discussion and Conclusions

The respondent failed to file a written answer and an order of default was properly entered. General Statutes § 46a-83 (l) expressly authorizes the executive director to enter a default order against a respondent "... after notice, fails to answer a complaint ...." Also, § 46a-54-46a (a) of the Regulations of Connecticut State Agencies provides the executive director with authority to enter an order of default against a respondent who, after notice, fails to answer a complaint.

"[The] default operates as a confession by the defaulted defendant of the truth of the material facts alleged in the complaint, which are essential to entitle the plaintiff to some of the relief requested. It is not the equivalent of an admission of all of the facts pleaded. The limit of its effect is to preclude the defaulted defendant from making any further defense and to permit the entry of a judgment against him on the theory that he has admitted such of the facts alleged in the complaint as are essential to such a judgment. *Murray v. Taylor*, 65 Conn. App. 334, 335 (2001), cert. denied, 258 Conn. 928; see, *Kaye v. Housman*, 184 Conn. App. 808, 815 (2018).

In this case, the entry of the default order established the respondent's liability for violations of General Statutes §§ 46a-60 (a) (1) and 46a-60 (a) (4) and, through § 46a-58 (a), of Title VII when it terminated the complainant from his employment on the basis of his religion, ancestry, national origin and in retaliation for complaining about discriminatory practices. Liability having been determined as a function of the default, all that remains is the assessment of damages based on the evidence presented. The complainant bears the burden at the hearing on damages of proving that the amount of damages claimed is derived from the injuries suffered and is properly supported by the evidence. *Murray v. Taylor*, supra; *Kaye v. Housman*, supra, 817; *Carothers* v. *Butkin Precision Mfg. Co.*, 37 Conn. App. 208, 209 (1995); *Commission on Human Rights & Opportunities ex rel. Mohammed* v. *Norwalk Economic Opportunity NOW, Inc.*, 2014 WL 77776677, 3; *Commission on Human Rights & Opportunities ex rel. Punzalan* v. *Zheng Trust LLC dba Koto Japanese Restaurant*, 2014 WL 5791595, *3, CHRO No. 1140112 (October 28, 2014).

IV
Damages

General Statutes § 46a-83 (l) expressly authorizes the presiding referee "to enter, after notice and hearing, an order eliminating the discriminatory practice complained of and making the complainant whole." Pursuant to General Statutes §§ 46a-83 (l) and 46a-86, and §§ 46a-54-46a (e) and 46a-54-88a (b) of the regulations, the undersigned is authorized to award such relief. *State of Connecticut v. Commission on Human Rights & Opportunities*, 211 Conn. 464, 478 (1989). The phrase "make whole relief" refers to compensation awarded to a party for loss sustained.

The complainant in an employment discrimination case such as this has a duty to mitigate his economic damages by using reasonable diligence to find other suitable employment. In fashioning specific orders of "make whole relief" in employment discrimination cases, human rights referees are authorized to make back pay awards after deducting "[i]Interim earnings, including unemployment compensation and welfare assistance or amounts which could have been earned with reasonable diligence on the part of the person to whom back pay is awarded ...." General Statutes § 46a-86 (b). The statutory mandate of § 46a-86 (b) that requires deductions from damage awards follows an established legal doctrine which obligates injured victims to use reasonable efforts to limit or mitigate their losses, and prohibits them from recovering damages for any harm that they could have avoided or minimized with reasonable effort. *Ann Howard's Apricots Restaurant, Inc. v. Commission on Human Rights & Opportunities*, 237 Conn. 209, 229 (1996); *Commission on Human Rights & Opportunities, ex rel., Downes v. zUniversity.com, Inc.*, 2003 WL 25592787 * 2 (CHRO No. 0120366) (September 12, 2003).

"The doctrine, which is two-pronged, obligates injured victims to take reasonable steps to limit, or mitigate their losses, and prohibits them from recovering damages for any harm that they could have avoided or minimized with reasonable effort. See Restatment (Second) of Torts, § 918 (1)." *Commission on Human Rights & Opportunities ex rel. Urban v. United Pet Supply, Inc.*, 2012 WL 3877973, *5 (CHRO No. 0830309) (August 2, 2012).

In the prayer for relief, the commission requests thirteen weeks of lost wages from August 31, 2016, the date of the complainant's termination, through November 31, 2016, when he suffered a stroke and became permanently disabled. When a complainant is injured or becomes ill subsequent to a discriminatory or otherwise unlawful termination, back pay may be tolled because the claimant is considered to have left the job market or is otherwise unemployable. *Smith v. Office of Personnel Management*, 778 F. 2d. 258, 263 (5th Cit. 1985); *Ostapowicz v. Johnson Bronze Co.*, 541 F. 2d 394, 401 (3rd Cir. 1976); *Commission on Human Rights & Opportunities ex. rel. Pullicino v. Pelham Sloane, Inc.*, 2012 WL 2060840, *6 (CHRO No. 0920214) (May 10, 2012).

The complainant satisfied his duty to mitigate his damages until he left the job market as a result of the stroke that he suffered on November 31, 2016, thus tolling the back pay period. *Commission on Human Rights & Opportunities ex. rel. Pullicino v. Pelham Sloane, Inc.*, supra. He actively looked for employment with the assistance of the Connecticut Department of Labor and its workforce training center and applied for a number of positions (CHRO Ex. 10, Tr. 41-44). The Department of Labor recommended that he take a plumbing course to learn a trade, and the complainant planned to do so. However, before he was able to start the course, he suffered a stroke, which left him unable to work again and he left the job market (CHRO Ex. 10, Tr. 41-44).

I find that the complainant is entitled to damages in the form of back pay relief, as specifically authorized by General Statutes § 46a-86 (b), from August 31, 2016, the date of his termination by the respondent, through November 31, 2015, the date on which he suffered a stroke, as follows. In the calendar year 2015, the complainant earned $18,722 in wages from the respondent and worked for about 24 weeks, from July 15, 2015 through December 31, 2015. [5] For this period, he earned $780 per week. In the calendar year 2016, the complainant earned $23,290.37 in wages from the respondent and worked for almost 35 weeks. [6] During the calendar year 2016, he earned $665 a week. Therefore, during the tenure of his employment with the respondent, the complainant earned an average of $722 per week (average of $780 and $665).

Actual wage information in the complainant's federal tax returns for 2015 and 2016, and his final paystub from the respondent, provide a legal basis to support a claim for lost earnings attributable to an average base salary of $722 per week, for the thirteen week period from the date of his termination on August 31, 2016, through November 31, 2016, when he suffered a stroke, less an offset for unemployment benefits received. For the thirteen-week period between August 31, 2016 and November 31, 2016, the complainant would have earned $9,386 ($722 x 13 = $9,386). The complainant received unemployment compensation benefits in the total amount of $7,008. The complainant therefore is entitled to a back pay award of $2,378 ($9,386 - $7,008 = $2,378).

In sum, based on the documentary evidence, the complainant is awarded the amount of $2,378.00 in lost wages, net of unemployment compensation benefits received, based on an average salary of $722.00 per week for thirteen weeks from the date of his unlawful termination on August 31, 2016, until he suffered a stroke on November 31, 2016, and left the job market.

General Statutes § 46a-86 (c) specifically authorizes: "In addition to any other action taken under this section, upon a finding of a discriminatory practice prohibited by section 46a-58, 46a-59, 46a-64, 46a-64c, 46a-81b, 46a-81d or 46a-81e, the presiding officer shall determine the damage suffered by the complainant, which damage shall include, but not be limited to, the expense incurred by the complainant for obtaining alternate housing or space, storage of goods and effects, moving costs and other costs actually incurred by the complainant as a result of such discriminatory practice and shall allow reasonable attorney's fees and costs. The amount of attorney's fees allowed shall not be contingent upon the amount of damages requested by or awarded to the complainant."

The inclusion of a claim under General Statutes § 46a-58 (a) in the complaint affidavit allows me to convert federal claims (as were made here) into claims under Connecticut law, and to award damages for emotional distress pursuant to General Statutes § 46a-86 (c). [7] See *Commission on Human Rights & Opportunities v. Board of Education of the Town of Cheshire*, 270 Conn. 665, 686 (2004); *Trimachi v. Connecticut Workers Compensation Committee,* Superior Court, Docket No. CV 97403037S (June 14, 2000)

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[5] See complainant's federal income tax return for 2015, Forms W-2 & W-2G Summary attached to Form 1040 (CHRO Ex. 6)

[6] See complainant's Form W-2 2016 Wage and Tax Statement (CHRO Ex. 6); his federal income tax return for 2016 Form 1040A (CHRO Ex. 7); and his final paystub from the respondent (CHRO Ex. 8).

[7] The commission has no direct jurisdiction to enforce violations of federal law. Deprivations of rights secured or protected by federal antidiscrimination law constitute violations of General Statutes § 46a-58 (a) and the commission treats such deprivations as purely state law violations. *City of Shelton v. Collins*, 2014 WL 1032765 (D. Conn. March 14, 2014), aff'd sub nom., *City of Shelton v. Hughes*, 578 Fed. Appx. 53 (2d Cir. 2014).

(2000 WL 872451); *Commission on Human Rights & Opportunities ex rel. Vazquez v. Conti,* 2011 WL 2662229 (CHRO No 1050064) (June 27, 2011).

Awards of damages for emotional distress pursuant to our anti-discrimination statutes must be limited to compensatory, as opposed to punitive, amounts. *Chestnut Realty, Inc. v. Commission on Human Rights & Opportunities,* 201 Conn. 350,366 (1986). Damages for garden-variety emotional distress must be supported by competent evidence of genuine injury, but medical evidence is not necessary. *Commission on Human Rights & Opportunities ex rel. Taranto v. Big Enough, Inc.,* 2006 WL 4753475, *13 (CHRO No. 0420316) (June 30, 2006). The complainant's testimony may be sufficient so long as he offers specific facts as to the nature of his claimed emotional distress and as to the causal connection to the employer's alleged violation. *Murray v. Taylor,* supra, 65 Conn. App. 335; *Commission on Human Rights & Opportunities ex. rel. Punzalan v. Zheng Trust, LLC, dba Koto Japanese Restaurant,* supra, 2014 WL 5791595, * 3.

In the prayer for relief, the commission is requesting compensatory damages for emotional distress of $100,000 to compensate the complainant for the negative emotions that he experienced as the intrinsic result of the respondent's discriminatory conduct.

As a threshold matter, there must be a showing that the respondent's unlawful conduct against the complainant was the proximate cause of his emotional harm. *Murray v. Taylor,* supra; *Commission on Human Rights & Opportunities ex. rel. Punzalan v. Zheng Trust, LLC, dba Koto Japanese Restaurant,* supra, 2014 WL 5791S, *5.

The commission argues that the complainant's health conditions of hypertension/high blood pressure and stroke are elements of his claim for garden-variety emotional damages and should be taken into consideration in arriving at an appropriate award of noneconomic damages for the emotional harm he experienced as a result of his termination. As a rule, damages for garden-variety emotional distress do not encompass matters that bear on particularized mental health or physical health issues that require diagnosis or treatment. "A 'garden variety' emotional distress claim is the type of emotional injury that would ordinary result from the alleged conduct. Such emotional distress is incidental to the alleged misconduct and has no long term or lasting effect." (Citations omitted.) *Commission on Human Rights & Opportunities ex rel. Miranda v. New Haven Board of Education,* 2016 WL 9405662, *13 (CHRO No. 1230148) (October 20, 2016). Emotional distress damages of the garden variety are limited to "ordinary or commonplace emotional distress ... that is simple and usual." *Rahman v. Ulster County Department of Social Services,* 194 F.R.D. 445 n. six (N.D.N.Y 2000). "In contrast, emotional distress that is not garden-variety may be complex, such as that resulting in a specific psychiatric disorder, or may be unusual, such as to disable one from working." Id.

Using this standard, I decline to extend the scope of "ordinary or commonplace" negative emotional reactions that the complainant, as the injured party, experienced to include his diseases of hypertension/high blood pressure and stroke as elements to be considered in arriving at an award of damages for ordinary garden-variety emotional harm. The complainant's situation arouses sympathy and his stroke, now doubt, is a hardship for him. The complainant's health conditions of high blood pressure and stroke, however, cannot fairly be considered ordinary, commonplace, simple, or usual emotional reactions within the scope of intangible garden-variety emotional distress damages, especially without medical testimony establishing a causal connection between the termination of his employment and the medical conditions. See, *Ruhlmann v. Ulster County Department of Social Services,* supra, 194 F.R.D. 445 n. 6. The complainant's diagnoses of hypertension/high blood pressure and stroke are not placed in issue

under the pleading, and these serious medical conditions are not encompassed within the universe of negative emotions of the garden-variety type resulting from the respondent's unlawful discriminatory act. Id.; *E.E.O.C. v. Wal-Mart Stores, Inc.,* 276 F.R.D. 637, 641 (2011); *Flowers v. Owens*, 274 F.R.D. 2018, 221-222 (N.D. Ill 2011).

By default, the respondent *is* liable on damages for emotional distress of the garden-variety type that the complainant is found to have experienced because of the wrongful termination of his employment. Criteria to be considered when awarding damages for emotional distress are: (1) the complainant's subjective internal emotional reaction to the respondent's actions; (2) the public nature of the respondent's actions; (3) the degree of offensiveness of those actions; and (3) the impact of those actions on the complainant. *Commission on Human Rights & Opportunities ex rel. Peoples v. Belinsky*, Superior Court, judicial district of Stamford-Norwalk, Docket No. CVNo8806-1209 (November 8, 1988) (1988 WL 492460); *Commission on Human Rights & Opportunities ex rel. Taranto v. Big Enough, Inc.,* supra, 2006 WL 4753475, *30 (CHRO No. 0420316) (June 30, 2006);); *Commission on Human Rights & Opportunities ex rel. Harrison v. Greco*, CHRO No. 7930433, 15 (June 3, 1985).

The manner of the complainant's dismissal was troubling and humiliating and occurred in the presence of several co-workers who experienced the same fate. The impact of the abrupt termination of his employment took the complainant by surprise and left him feeling desperate. The summary nature of the complainant's termination, after being summoned to the respondent's New York office on the pretext of reporting for a company vehicle inspection, denied the complainant any opportunity of making a smooth transition to a new job or career. The complainant's testimony establishes that he experienced emotional and financial stress and had difficulty sleeping. The complainant lost his job and the financial security that a job provides in supporting a family, paying bills, and paying the rent on his apartment. His ability to provide financial support for his children was disrupted.

Although the complainant did not seek treatment for the emotional impact of the respondent's conduct on his personal and family relationships and his financial security, the complainant need not present medical or expert testimony in establishing his claim for generic, garden-variety emotional distress damages; his own testimony regarding the detrimental effects of the harassment may suffice. *Schanzer v. United Technologies Corp.*, 120 F. Supp. 2d 200, 217 (D. Conn. 2000); *Patino v. Birkin Manufacturing Co.*, 304 Conn. 679, 707 n. 25 (2010); *Commission on Human Rights & Opportunities ex rel. Hartling v. Carfi*, 2006 WL 4753467, *7 (CHRO No. 0550116) (October 26, 2006).

Given the importance of the complainant's right to a workplace free of discrimination, the importance of his ability, when subjected to questionable employment practices, to come forward without fear of retaliation, and the impact on his emotional well-being, and based on the evidence, I conclude that the complainant is entitled to a compensatory damages award for garden variety emotional distress in the amount of $45,000.

ORDER OF RELIEF

Therefore, based on the foregoing the following remedies are hereby Ordered:

1. The respondent shall cease and desist from all acts of discrimination prohibited under federal and state law and shall provide a nondiscriminatory work environment pursuant to federal and state fair employment practices laws.

2. The respondent shall not retaliate against the complainant.

3. The respondent shall pay to the complainant $2,378 in back pay damages.

4. The respondent shall pay to the complainant $45,000 in emotional distress damages.

5. Pursuant to General Statutes § 46a-86 (b), the respondent shall pay $7,008 to the Commission on Human Rights and Opportunities representing the unemployment compensation amount paid to the complainant. The commission shall then transfer such amount to the appropriate state agency.

6. The respondent shall pay to the complainant statutory prejudgment interest on the lost wages award calculated at the rate of five percent per annum, compounded annually from August 31, 2016, until the date of this decision.

7. The respondent shall pay to the complainant statutory postjudgment interest on the lost wages award at the rate of five percent per annum, compounded annually, from the date of this decision.

It is so ordered this 14th day of August 2019.

Elissa T. Wright

Hon. Elissa T. Wright
Presiding Human Rights Referee

cc.

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