

**STATE OF CONNECTICUT
COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES
OFFICE OF PUBLIC HEARINGS**

Commission on Human Rights and
Opportunities ex rel. Donald J. Rajtar,
Complainant
v.

CHRO No. 0510115
Fed No. 16aa402033

Town of Bloomfield,
Respondent

November 8, 2007

**DECISION ON RECONSIDERATION
PETITIONS**

By petition dated October 17, 2007, timely filed pursuant to General Statutes § 4-181a, the respondent has requested reconsideration of the denial of its motion to dismiss dated February 15, 2007. The petition is denied as to the October 3, 2007 ruling on the motion.

The respondent's petition also requested a reconsideration of whether the relief ordered pursuant to the October 3, 2007 final decision required the respondent to reinstate the complainant to his duties despite the superior court judgment in *Town of Bloomfield v. United Electrical Radio & Machine Workers of America*, 2006 WL 3491719 (Conn. Super.) and any appellate doings predicated thereon. The petition is granted as to the final decision for the purpose of affirming the final decision and offering clarification so that the terms of the final decision can be fully and properly implemented.

Consistent therewith, the complainant's motion dated October 18, 2007, and timely filed pursuant to General Statutes § 4-181a, requesting clarification and/or modification so as

to specifically provide that the complainant be reinstated to the full duties of a Bloomfield police officer without condition precedent in regard to *Town of Bloomfield v. United Electrical*, supra, is also granted for the purpose of affirmation and clarification.

Upon review of the aforementioned petition and motion, and the respective October 26, 2007 objection to motion and October 31, 2007 objection to respondent's petition, and upon reconsideration of the October 3, 2007 final decision, said decision is affirmed in every respect as initially stated. In addition thereto, the following clarification of that which was initially stated is issued herewith, which shall constitute a clarifying amendment (so as to remove any claimed remaining ambiguities) to the October 3, 2007 final decision.

CLARIFICATION

The complainant's termination was predicated on Town Manager Chapman's implementation of Chief Hard's written notice to terminate (R-15), wherein she determined that the complainant had fabricated a false witness utterance in an affidavit and had made false statements during an internal affairs (IA) investigation. She found additionally that with regard to the Lee's incident he had failed to perform a complete and thorough preliminary investigation. Because there was no evidence presented to establish that the poor quality of the preliminary investigation would have led to more than retraining, the October 3, 2007 final decision focused on the two allegations of untruthfulness charged in Chief Hard's notice and adopted by Town Manager Chapman. I found in the final decision that the complainant's alleged untruthfulness was not fairly

established, nor was a fair and unbiased process implemented so as even to allow for a fair determination of same. Because I found both the determination and the process to be fatally flawed by discriminatory animus, I had no basis by which to fairly conclude that the complainant had been untruthful in the particulars charged. Hence I concluded that his untruthfulness had in fact not been established. As such I found his discharge on April 19, 2004 to be an unlawful employment practice.

Consistent therewith, I find that any subsequent (to April 19, 2004) or future discharge, suspension, diminution of duties, or adverse charges to the terms and conditions of the complainant's employment as a police officer in the respondent's police department, if in any way predicated on the respondent's April 19, 2004 determination that the complainant had been untruthful as charged, to be an unlawful employment practice. This final decision therefore constitutes a reinstatement of the complainant (as needed) to full duty as a Bloomfield police officer.

This decision is to remain in full force and effect until or unless directly and specifically set aside, overruled, modified or remanded by a court of competent jurisdiction. Otherwise this final decision is to be construed independent of any finding in *Town of Bloomfield v. United Electrical*, supra, or any appellate review thereof, that does not specifically address the efficacy of this final decision. The public policy question under scrutiny therein is one I have found to be inapplicable to this final decision inasmuch as it is premised upon a finding of the complainant's untruthfulness, to which finding I ascribe no substantial weight (as specifically authorized by General Statutes § 46a-

85b), such finding having been made without a review of the complainant's claims of discrimination, and to which review he is entitled as a matter of law.

It is so ordered this 8th day of November 2007.

J. Allen Kerr, Jr.
Presiding Human Rights Referee

cc.

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