

**COMMONWEALTH OF MASSACHUSETTS
COMMISSION AGAINST DISCRIMINATION**

MASSACHUSETTS COMMISSION
AGAINST DISCRIMINATION
and FRANK JOSEY
Complainant

v.

97-SEM-1030

CRYSTAL TRANSPORT, INC.,
Respondent

DECISION OF THE FULL COMMISSION

This matter came before us following a decision of Hearing Officer Betty Waxman in favor of Respondent. Following an evidentiary hearing, the Hearing Officer concluded that Complainant was not subjected to unlawful retaliation in employment in violation of M.G.L. c. 151B. The Complainant then filed a timely Petition for Review.

The responsibilities of the Full Commission are outlined by statute, the Commission's Rules of Procedure (804 CMR 1.00 *et seq.*) and relevant case law. It is the duty of the Full Commission to review the record of proceedings before the Hearing Commissioner or Officer. M.G.L. c. 151B §5. The Hearing Officer's findings of fact must be supported by substantial evidence, which is defined as "...such evidence as a reasonable mind might accept as adequate to support a finding..." Katz v. MCAD, 365 Mass. 357, 365 (1974); M.G.L. c. 30A. It is the responsibility of the Hearing Officer to evaluate the credibility of witnesses and/or to weigh the evidence when deciding disputed questions of fact, and the Full Commission defers to these

determinations. See e.g. School Committee of Chicopee v. MCAD, 361 Mass. 352 (1972); Bowen v. Colonnade Hotel, 4 MDLR 1007, 1011 (1982).

The role of the Full Commission is to determine whether the decision on appeal was rendered in accordance with the law, or whether the decision was arbitrary or capricious, an abuse of discretion, or was otherwise not in accordance with the law. See 804 CMR 1.16(8)(f).

We have carefully reviewed the petition for appeal and the full record in this matter and have weighed all the objections to the decision in accordance with the standard of review articulated herein.¹ We find no errors of fact or law and conclude that there is substantial evidence in the record to support the findings of fact made by the Hearing Officer. We therefore deny the appeal and affirm the decision below in its entirety.

ORDER

For the reasons set forth above, we hereby affirm the findings of fact, conclusions of law and the Order of the Hearing Officer and incorporate herein the findings of fact, the conclusions of law and the Orders of the Hearing Officer.

¹ We note that Complainant, through counsel, filed a one-page Petition for Review making only conclusory arguments regarding the purported invalidity of the entire decision. We admonish Complainant that the Commission's Rules of Procedure, 804 CMR 1.23, require that an appellant argue with specificity which findings of fact and conclusions of law were in error. Complainant's Petition contained none of these required components and we decline to embark on a fishing expedition on his behalf. Nonetheless, we have reviewed the entire record in accordance with the applicable standard of review.

This Order represents the final action of the Commission for purposes of M.G.L. c. 30A. Any party aggrieved by this final determination may contest the Commission's decision by filing a complaint seeking judicial review pursuant to M.G.L. c. 30A and c. 151B §6 in the Superior Court within thirty (30) days of receipt of this decision.

SO ORDERED this 19th day of August, 2004.

Walter J. Sullivan, Jr., Commissioner

Cynthia A. Tucker, Commissioner