

**COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION**

MASSACHUSETTS COMMISSION  
DISCRIMINATION AND  
OSCAR JOHNSON,  
Complainant

v.

DOCKET NO. 99-BEM-1149

EAST WEST MORTGAGE CO., INC.,  
Respondent

**DECISION AND ORDER OF THE FULL COMMISSION**

This matter has come before us following a decision of Hearing Officer Eugenia Guastaferrri in favor of Respondent. Following an evidentiary hearing, the Hearing Officer concluded that Respondent did not subject Complainant to a hostile environment, apply different terms and conditions to his employment, or terminate him based on his race. 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 under 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 Review 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. As a result of that review, we find no material 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 Order of the Hearing Officer.

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 in accordance with M.G.L. c. 151B §6 in the Superior Court within thirty (30) days of receipt of this decision.

SO ORDERED this 18<sup>th</sup> day of March, 2004.

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Cynthia A Tucker, Commissioner

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Walter J. Sullivan Jr., Commissioner