Iowa Department of Inspections and Appeals
Division of Administrative Hearings
Wallace State Office Building, Third Floor
Des Moines, Iowa 50319

IOWA CIVIL RIGHTS COMMISSION	)	
	)	DIA No. 18ICRC0002
v.	)	
	)	
AAA ALLIED BUILDING SERVICES, BRUCE SMITH, and BRUCE SMITH d/b/a AAA ALLIED BUILDING SERVICES,	)	**PROPOSED DECISION**
Respondents.	)	

This case involves a complaint filed by Complainant David Curry with the Iowa Civil Rights Commission (the Commission) against Respondents AAA Allied Building Services, Bruce Smith, and Bruce Smith d/b/a AAA Allied Building Services. After an investigation, the Commission determined that probable cause existed with regard to Complainant's allegations that Respondents discriminated against him in the area of employment based on race. On November 9, 2017, the Commission filed a Statement of Charges and transferred the matter to the Department of Inspections and Appeals for a contested case hearing.

Hearing in this matter was held on April 17, 2018. Assistant attorney general Katie Fiala represented the Commission. Respondents did not appear after proper service. The following witnesses testified for the Commission: David Curry; Alexis Rowe; and Keith Kennedy. Commission Exhibits 1 through 4 were admitted as evidence.

Arrangements were made at hearing to hold the record open until May 2, 2018 in order for the parties to submit post-hearing briefs. The Commission timely submitted a post-hearing brief.

Request for Default Judgment

In its post-hearing brief, the Commission requests that a default judgment be entered against Respondents pursuant to 161 Iowa Administrative Code 4.4. That rule provides that if a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may enter a default decision or proceed with the hearing and render a decision in the absence of the party.[1] Where "appropriate and not contrary to law," any party may move for default judgment against a party who has

1 161 Iowa Administrative Code (IAC) 4.4(1).

requested the contested case proceeding and has failed to file a required pleading or has failed to appear after proper service.[2]

The Commission did not request that a default judgment be entered against Respondents on the date of hearing and a hearing was held in Respondents' absence. In an employment discrimination case, the burden of persuasion rests with the employee.[3] Additionally, the Commission seeks damages in this case. Awarding damages is not possible without some factual record to support such an award. Under these circumstances, the Commission's request for a default judgment against Respondents is denied. The Commission requests that, in the alternative, a judgment on the merits be entered in favor of the Commission. A discussion of the merits of the case follows.

FINDINGS OF FACT

David Curry, who is African American, began working for Respondent Bruce Smith, who is white, in May 2015. Smith owns and operates Respondent AAA Allied Building Services. Curry performed work for Respondents that involved cleaning and janitorial tasks at several stores, including Petsmart and Best Buy stores, in the metro Des Moines area. Curry got the job through a friend and relative, Keith Kennedy, who is also African American. There was no formal interview process for the job. Kennedy mentioned to Smith that Curry was interested, and Smith met Curry and hired him. (Curry, Kennedy testimony).

Kennedy and Curry typically worked as a two person crew with Kennedy supervising Curry's work. They worked from approximately 4:00 AM to 8:30 or 9:00 AM, for a total of 20 hours per week.[4] The crew usually spent approximately one and one-half to two hours in each store. Curry earned $10 per hour. There were other individuals who worked for Smith, but Curry did not have contact with anyone but Kennedy on a daily basis; he saw some of the other employees when Smith dropped by a job site to deliver supplies. At the time Curry was employed, Smith had three or four two-person crews. (Curry testimony).

Curry typically saw Smith every Friday when Smith paid the employees and also when Smith dropped by a job site to deliver supplies. At first, Curry's interactions with Smith did not cause him concern. Around the third month that Curry was employed, however, Smith's demeanor changed and he became angry and disrespectful. Curry does not know what caused the change. Smith would make references to "you people" when

---

2 161 IAC 4.4(2).
3 *Hy-Vee Food Stores, Inc. v. Iowa Civil Rights Comm'n*, 453 N.W.2d 512, 517 (citation omitted).
4 There is no evidence in the record regarding how many days per week Curry worked when he was employed by Respondents. Given his testimony that he worked approximately four and one-half to five hours per day and 20 hours total per week, I assume he worked five days per week.

talking to Curry and Kennedy, which Curry interpreted as a reference to their race. On at least one occasion, Smith said to Curry, "You black ass stupid niggers can't do nothing right." Smith called Curry and Kennedy "worthless sons of bitches." It got to the point during Curry's employment where Smith was using racially charged language almost every time the two interacted. Curry typically just walked away when Smith came to the job site. (Curry testimony).

Curry complained to Kennedy when Smith made race-based comments, telling him that Smith's behavior was not right and asking how much they had to take of that behavior. Kennedy recalls Curry saying that Smith should be glad Curry needs the work or he would "give him what for." Curry was afraid to complain directly to Smith, as he believed that would escalate the situation. (Curry testimony).

Kennedy observed that Smith was always picking on Curry, but did not know why. Kennedy testified that he, Kennedy, did not tolerate a lot of Smith's "crap" and would challenge Smith when he made offensive comments. Kennedy heard Smith make race-based comments to Curry. Smith also called Curry and Kennedy lazy. On various occasions, Kennedy heard Smith make the following statements:

- "That's what I say about you niggers."
- "Look at what you all's president is doing now."
- "I gotta teach you everything. You people don't pick up on shit if it's not a basketball or football."

(Kennedy testimony).

Curry did not quit the job when the race-based insults began because he needed the money. He had just been granted disability benefits due to back problems, therefore could only work four hours per day. Curry had not been subjected to the language and racial slurs that Smith used in the workforce previously. It made him angry and upset; he testified that he might have reacted differently if he were a few years younger, but he felt it was best to "turn the other cheek." Curry was surprised that Smith, a business owner, would engage in this type of conduct. (Curry testimony).

At hearing, Curry testified that his hours were reduced sequentially, from four to three to two hours per day. Curry testified that Kennedy's hours were also reduced in the same fashion. Curry believes the change in his hours was due to race. (Curry testimony).

Smith typically paid his employees, including Curry, in cash. On September 5, 2015, which was a payday, Smith told Curry that he was not going to pay Curry until his lawyer told him to. As far as Curry is aware, Smith paid all of the other employees that day. Curry worked 20 hours during the week ending September 5 and was owed $200. When Kennedy and Curry went to pick up their pay at Smith's house, there was no

envelope for Curry. Curry got upset and Kennedy called Smith to inquire why Curry had not been paid. Smith stated, "Fuck that nigger. I ain't paying him shit." (Curry, Kennedy testimony).

In his complaint, Curry wrote that he worked until September 5, 2015, "when I was told I would not be payed [sic] for my work because I complained about the pay for the week of Aug 20 to Aug 27th." On another part of the complaint, Curry wrote that he felt that Smith did not pay him for the week ending September 5 because Curry worked a little slower than others. At hearing, Curry was asked how his not being paid related to his race; Curry responded that he does not know if that was the whole reason. He added that Smith's prior statements made him feel like the nonpayment was because of his race. (Exh. 1; Curry testimony).

After September 5, 2015, Curry conducted a job search online and through a job service. He ultimately went through an AARP retraining program for persons with disabilities. After completing that program, he was hired as an administrative assistant at an organization that operates a day care and food pantry. He initially worked in the day care, then moved to a position as an intake specialist at the food pantry. Curry began his new employment on November 10, 2016. Between September 5 and November 10, 2016, Curry was cutting grass and raking leaves to pay bills. He estimated that he worked five to six hours per day from September through November 2015 and during September and October 2016. He earned $10 per hour for this work. Curry also made a small amount of money for snow removal; he estimated he made $100 per snowfall and that there were four snowfalls during the winter that he engaged in this employment. (Curry testimony).

CONCLUSIONS OF LAW

Under the Iowa Civil Rights Act of 1965 ("ICRA"),

1. It shall be an unfair or discriminatory practice for any:
   a. Person to refuse to hire, accept, register, classify, or refer for employment, to discharge any employee, or to otherwise discriminate in employment against any applicant for employment or any employee because of the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability of such applicant or employee, unless based upon the nature of the occupation.[5]

While Iowa courts and this tribunal are not bound by federal cases construing federal discrimination statutes when interpreting and applying the ICRA, the Iowa Supreme Court has recognized that the ICRA only establishes a general proscription against

5 Iowa Code § 216.6(1).

discrimination, therefore the Court has looked at times to corresponding federal statutes as a guide in applying the state Act.[6]

The Statement of Charges that initiated this contested case proceeding alleges three counts of discrimination by Respondents: 1) discriminatory racial harassment in violation of Iowa Code § 216.6(1)(a); 2) discriminatory reduction in hours in violation of Iowa Code § 216.6(1)(a); and 3) constructive discharge in violation of Iowa Code § 216.6(1)(a).

A. *Harassment*

To establish a harassment claim, a plaintiff must show: 1) he belongs to a protected group; 2) he was subjected to unwelcome harassment; 3) the harassment was based on a protected characteristic; and 4) the harassment affected a term, condition, or privilege of employment.[7] If the harassment is perpetrated by a nonsupervisory employee, a plaintiff must show that the employer knew or should have known of the harassment and failed to take proper remedial action.[8] For harassment to be actionable, it must "reasonably be perceived, and [be] perceived by the victim, as 'sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment.'"[9]

In this case, the behavior that Curry was subject to in the workplace at the hands of Smith included racial slurs directed at Curry and race-based insults regarding Curry and other African Americans. Once Smith began engaging in this behavior, it occurred during nearly every interaction with Curry. Curry began avoiding Smith at the job site so that he would not have to be subjected to this conduct.

Curry belongs to a protected group; he is African American. A plaintiff must indicate by his conduct that the harassment is unwelcome.[10] Curry contemporaneously complained about the harassment to Kennedy, his supervisor, and began avoiding Smith at the workplace. This conduct demonstrates that Curry did not welcome the harassment Smith engaged in. Additionally, there can be no dispute here that the harassment was

---

6 *Goodpaster v. Schwan's Home Service, Inc.*, 849 N.W.2d 1, 9 (Iowa 2014) (*citing Casey's General Stores v. Blackford*, 661 N.W.2d 515, 519 (Iowa 2003) and *Loras College v. Iowa Civil Rights Comm'n*, 285 N.W.2d 148, 147 (Iowa 1979)); *see also Vivian v. Madison*, 601 N.W. 2d 872, 873 (Iowa 1999).
7 *Farmland Foods v. Dubuque Human Rights Comm'n*, 672 N.W.2d 733, 744 (Iowa 2003) (*citing Beard v. Flying J, Inc.*, 266 F.3d 792, 797 (8th Cir. 2001)); *see also Watson v. Ceva Logistics U.S., Inc.*, 619 F.3d 936, 942 (8th Cir. 2010).
8 *Farmland Foods,* 672 N.W.2d at 744 (*citing Stuart v. Gen. Motors Corp.*, 217 F.3d 621, 631 (8th Cir. 2000)).
9 *Sheriff v. Midwest Health Partners, P.C.*, 619 F.3d 923, 930 (8th Cir. 2010) (*citing Harris v. Forklift Systems, Inc.*, 510 U.S. 17, 21-22 (1993)).
10 *Hocevar v. Purdue Frederick Co.*, 223 F.3d 721, 728-29 (8th Cir. 2000).

based on a protected characteristic; specifically, Curry's race. Smith used racial slurs and made derogatory statements regarding African Americans.

To establish that harassment is severe or pervasive requires both a subjective determination that the complainant perceived the conduct as abusive and a finding that a reasonable person would also find the conduct abusive or hostile. This objective determination takes into account the totality of the circumstances, including the frequency of the conduct, the severity of the conduct, whether the conduct was physically threatening or humiliating or whether it was merely offensive, and whether the conduct unreasonably interfered with the employee's job performance.[11] Comments being directed at a particular employee, rather than simply "bandied about the workplace with no particular target" or made behind an employee's back, and being made in the presence of other employees lend weight to a finding that the conduct was more severe.[12]

As noted above, Curry's conduct reflected his subjective perception of Smith's behavior as unwelcome. With regard to the objective determination, the totality of the circumstances clearly supports the conclusion that a reasonable person would have found Smith's conduct to be abusive and hostile. Smith used racial slurs and made explicitly negative comments about Curry and others based on their race. This conduct was not infrequent or isolated; the insults occurred repeatedly and were made directly to Curry, often in front of Kennedy. The evidence supports the conclusion that Smith's conduct was sufficiently severe and pervasive to affect the terms and conditions of Curry's employment. The Commission has established that Respondents created a hostile work environment for Curry in violation of Iowa Code § 216.6(1).

B. *Reduction in Hours*

The Commission has also alleged that Respondents violated the ICRA by reducing Curry's hours based on his race. To establish a prima facie case of race discrimination based on disparate treatment, a plaintiff must show: 1) he is a member of a protected class; 2) he was qualified; 3) he suffered an adverse employment action; and 4) there are facts that give rise to an inference of unlawful race discrimination.[13]

An adverse employment action is an action that detrimentally affects the terms, conditions, or privileges of employment.[14] Adverse employment actions can include disciplinary demotion, termination, unjustified evaluations and reports, loss of normal work assignments, or extension of a probationary period. An adverse employment

11 *Farmland Foods*, 672 N.W.2d at 744-45.
12 *Watson*, 619 F.3d at 943 (*citing Sandoval v. Am. Bldg. Maint. Indus., Inc.*, 578 F.3d 787, 802-03 (8th Cir. 2009)).
13 *Butler v. Crittenden Cnty., Ark.*, 708 F.3d 1044, 1050 (8th Cir. 2013) (*citing Wells v. SCI Mgmt., L.P.*, 469 F.3d 697, 700 (8th Cir. 2006)).
14 *Estate of Harris v. Papa John's Pizza*, 679 N.W.2d 673, 679 (Iowa 2004) (citations omitted).

action can occur even where an employee does not directly lose money or benefits. Changes in duties or working conditions that cause no materially significant disadvantage to the employee, however, are not adverse employment actions.[15]

Under the right circumstances, a substantial reduction in hours may cause a materially significant disadvantage to an employee and form the basis for a discrimination claim. I cannot conclude on this record, however, that Curry's hours were substantially reduced. Curry testified at hearing that his hours were reduced from four to three to two hours per day. Curry did not provide any detail, however, regarding the time frame during which this reduction allegedly occurred; the answer Curry provided about the alleged reduction in hours was in response to a question asking whether his hours were reduced "a little bit prior to September 5, 2015." While Kennedy testified at the hearing, he did not testify about any reduction in hours that he experienced during the time frame that Curry worked for Respondents; Curry, on the other hand, testified that Kennedy's hours were reduced as well. Finally, Curry testified that the final week he worked for Respondents he worked 20 hours and should have been paid $200. Twenty hours per week was the typical work week that Curry described prior to any alleged reduction in hours. There was no explanation by Curry about why, if there was a reduction prior to this point, he worked 20 hours during his last week of work with Respondents. The factual record does not provide enough detail about Curry's reduction in hours for a conclusion to be made that any reduction was materially significant. If Curry's hours were reduced during one or two weeks then brought back to his previous schedule, this would not constitute a materially significant disadvantage. Curry has failed to demonstrate that he suffered an adverse employment action through a reduction in hours; consequently, he has not made out a prima facie case on this count.

C. *Constructive Discharge*

A finding of constructive discharge can be made where "'the employer deliberately makes an employee's working conditions so intolerable that the employee is forced into an involuntary resignation.'"[16]

> Generally, trivial or isolated acts of the employer are not sufficient to support a constructive discharge claim. *Haberer v. Woodbury County*, 560 N.W.2d 571, 576 (Iowa 1997). Rather, the 'working conditions must be unusually 'aggravated' or amount to a 'continuous pattern' before the situation will be deemed intolerable." *Id.* (citation omitted). In addition, conditions will not be considered intolerable unless the employer has been given a reasonable chance to resolve the problem. *Breeding v. Arthur J. Gallagher & Co.*, 164 F.3d 1151, 1159 (8th Cir. 1999); *see First Judicial*

15 *Channon v. United Parcel Service, Inc.*, 629 N.W.2d 835, 862-63 (Iowa 2001).
16 *Van Meter Industrial v. Mason City Human Rights Comm'n*, 675 N.W.2d 503, 511 (*quoting First Judicial Dist. Dep't of Correctional Servs. v. Iowa Civil Rights Comm'n*, 315 N.W.2d 83, 87 (Iowa 1982)).

> *Dist. Dep't of Correctional Servs.*, 315 N.W.2d at 89. On the other hand, an employee need not stay if he or she reasonably believes there is no possibility the employer will respond fairly. *Kinzey v. Wal-Mart Stores, Inc.*, 107 F.3d 568, 574 (8th Cir. 1997). In determining whether a constructive discharge has occurred, the fact finder uses an objective standard. *Haberer*, 560 N.W.2d at 575.[17]

Whether an employer subjectively intends its actions to result in an employee quitting is irrelevant to a finding of constructive discharge; it is sufficient that the employee's resignation is a reasonably foreseeable consequence of the intolerable working conditions the employer created.[18]

The question to be answered here is whether Respondents made Curry's working conditions so intolerable that he was forced into an involuntary resignation. The evidence supports the conclusion that they did. At the point at which Curry left his employment with Respondents, Smith was using racial slurs or directing racially charged language at Curry during every interaction they had. There can be no argument, based on the record here, that Smith's comments had any legitimate purpose within the context of Curry's employment. They were malicious statements clearly designed to belittle and degrade Curry. The frequency and severity of Smith's conduct demonstrates that conditions were intolerable for Curry and he had no choice but to resign.

Curry's belief that Smith would not respond fairly if he raised concerns directly to Smith was reasonable. Smith repeatedly used racial slurs and race-based insults toward Curry and sometimes Kennedy. There is evidence that Kennedy challenged Smith when he engaged in this behavior, but no evidence that Smith stopped using racial slurs or race-based insults toward Kennedy. Curry was present to observe Smith's reactions to Kennedy's attempts to challenge him; it was reasonable therefore for Curry to believe that staying and attempting to deal with Smith's behavior directly would be futile. Even if Curry had not observed Kennedy's attempts to challenge Smith, the content and context of Smith's slurs and insults were such that a reasonable person would not believe that an employer making these types of statements would respond fairly to a request to stop. Under these circumstances, the Commission has proven that Curry was constructively discharged.

---

17 *Id.*

18 *Id.* at 512; *see also Green v. Brennan*, 136 S.Ct. 1769, 1779-1789 (To prove a constructive discharge claim, "[w]e do not also require an employee to come forward with proof – proof that would often be difficult to allege plausibly – that not only was the discrimination so bad that he had to quit, but also that his quitting was his employer's plan all along.").

D. *Damages*

Under the ICRA, a respondent who is found to have engaged in a discriminatory or unfair practice shall be ordered to cease and desist from the discriminatory or unfair practice and to take necessary remedial action. Remedial action includes, but is not limited to, payment to the complainant of damages for an injury caused by the discriminatory practice, including actual damages, court costs, and reasonable attorney fees.[19] In this case, the Commission seeks damages for Complainant's lost wages and emotional distress, as well as an order that Respondents undergo training on the anti-discrimination provisions of the ICRA for employers.

1. Lost Wages

The Commission seeks an award of $7,200 for lost wages for Banks. Actual damages under the ICRA include damages for lost wages.[20]

The Commission requests that lost wages be calculated from August 30, 2015 through November 10, 2016, or 58 weeks, at a rate of $200 per week. This reflects Curry's typical work week of 20 hours at $10 per hour. Total wages for the 58 weeks would be $11,600. The Commission acknowledges that Curry took steps to mitigate his damages through yard work and snow removal. He did yard work from September through November 2015 and September through October of 2016. The Commission estimates based on Curry's testimony that he worked approximately 20 hours per week during a total of 20 weeks earning $10 per hour, for a total of $4,000 in yard work earnings.21 Additionally, Curry earned approximately $100 for snow removal during each of four snowfalls during the time before he began steady work through his AARP retraining program. Total wages earned by Curry before he began steady employment again would have been approximately $4,400. Subtracting that amount from $11,600 yields $7,200. The Commission's calculations are supported by the evidence in the record. Curry is entitled to $7,200 in damages for lost wages.

2. Emotional Distress

The Commission seeks an award for damages in the amount of $10,000 for emotional distress suffered by Curry. The Iowa Supreme Court has recognized that emotional distress damages are allowed under the ICRA.[22] An award of emotional distress

---

19 Iowa Code § 216.15(9).
20 *See, e.g., Hamer v. Iowa Civil Rights Comm'n*, 472 N.W.2d 259, 265 (Iowa 1991).
21 Curry testified that he worked five to six hours per day cutting grass and raking leaves in the fall of 2015 and 2016. He did not testify regarding the number of days he worked per week. Given the fact that this work is dependent on favorable weather conditions, I find that the Commission's estimate of 20 hours per week accords with Curry's testimony.
22 *Chauffeurs, Teamsters and Helpers, Local Union No. 238 v. Iowa Civil Rights Comm'n*, 394 N.W.2d 375, 383 (Iowa 1986).

damages is appropriate even without a showing of physical injury, severe distress, or outrageous conduct.[23] The Iowa Supreme Court has held that the adequacy of the award in a particular case depends upon the unique facts of the case.[24]

In *City of Hampton v. Iowa Civil Rights Commission*,[25] the Iowa Supreme Court found that the Commission abused its discretion in making an award of $50,000 for emotional distress in a case where there was a "relatively small amount of evidence supporting the award and [a] total lack of any medical or psychiatric evidence to support it." In that case, the Court reduced the damages for emotional distress to $20,000. The Court also catalogued other cases in which emotional distress damages ranging from $5,000 to $15,000 had been approved under the ICRA.[26]

In this case, the only testimony regarding emotional distress came from Curry himself. Curry credibly testified that he was angry and upset when Smith began using racial slurs and race-based insults. Curry worked hard to "turn the other cheek" as he believed confronting Smith would escalate the situation. After careful consideration of the evidence, an award of $7,500 for emotional distress is appropriate and takes into account the emotional distress Curry suffered as well as the relatively short length of time that he was employed and subject to the hostile work environment.

3. Training

Finally, the Commission seeks an order requiring Respondents to undergo training on the anti-discrimination provisions of the ICRA for employers. Specifically, the Commission requests that Respondent's trustees and any supervisory staff participate in two hours of anti-discrimination training approved by the EEOC or the Commission.

The ICRA provides that the Commission may require a respondent to take necessary remedial action to carry out the purposes of the ICRA. The evidence in this case demonstrates that Respondents blatantly disregarded the ICRA. The anti-discrimination training that the Commission seeks is a remedy that will further the purposes of the ICRA and promote future compliance by Respondents in relationships with employees.

---

23 *City of Hampton v. Iowa Civil Rights Comm'n*, 554 N.W.2d 532, 537 (Iowa 1996) (*citing Hy-Vee Food Stores, Inc., v. Iowa Civil Rights Comm'n*, 453 N.W.2d 512, 526 (Iowa 1990).
24 *Lynch v. City of Des Moines*, 454 N.W.2d 827, 836-37 (Iowa 1990) (internal citations omitted).
25 554 N.W.2d 532, 537 (Iowa 1996).
26 *Id.*

ORDER

The Commission has proven that Respondents AAA Allied Building Services, Bruce Smith, and Bruce Smith d/b/a AAA Allied Building Services committed unfair and discriminatory employment practices with regard to Complainant David Curry; specifically, Respondents created a hostile work environment based on race and constructively discharged Curry. Respondents are ordered to pay $7,200 to Curry as compensation for lost wages. Respondents are further ordered to pay $7,500 to Curry as compensation for emotional distress. Respondents shall also arrange for Bruce Smith and any supervisory staff to participate in two hours of anti-discrimination training approved by the EEOC or the Commission. Respondents shall submit proof of completion of training to the Commission within 90 days of the date of this decision. If Respondents have questions about finding training that will meet this requirement, such questions may be directed to the Commission.

Dated this 12th day of June, 2018.

Laura E. Lockard
Administrative Law Judge

cc: Katie Fiala, AG
AAA Allied Building Services
Bruce Smith

****

Motion to Vacate. Pursuant to 161 Iowa Administrative Code 4.4(3), decisions rendered on the merits after a party has failed to appear or participate in a contested case hearing become final agency action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or unless an appeal of the decision on the merits is timely initiated within the time provided by rule 161 IAC 4.23. A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for the party's failure to appear or participate in the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

Appeal on the Merits. Pursuant to 161 Iowa Administrative Code 4.23, any adversely affected party may appeal this proposed decision to the Iowa Civil Rights Commission within 30 days of the date of the decision. The appeal must be signed by the appealing

party or a representative of that party and contain a certificate of service. In addition, the appeal shall specify:

a. The parties initiating the appeal;
b. The proposed decision or order appealed from;
c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
d. The relief sought;
e. The grounds for relief.

The Commission may also initiate review of a proposed decision on its own motion at any time within 60 days following the issuance of the decision.