

35302

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

RECEIVED
JUL 31 2009
BY: Shannon

PAR ELECTRICAL CONTRACTORS, INC.,

Petitioner/Appellant,

v.

CIVIL ACTION NO. 08-409-88

RICHARD WAYNE BEVELLE and THE
WEST VIRGINIA HUMAN RIGHTS
COMMISSION,

Respondents/Appellees.

FILED
2009 JUL 29 PM 1:48
KAWAHA CO. CLERK OF COURT

FINAL ORDER

This case is before the Court for consideration pursuant to *W.Va. Code* § 5-11-11, and upon the Petition for Appeal filed by PAR Electrical Contractors, Inc. ("PAR") from a final order and decision entered by the West Virginia Human Rights Commission ("HRC") on May 8, 2008, whereby the Commission adopted the final decision of the Administrative Law Judge ("ALJ") issued on January 30, 2008.

This Court has before it all pleadings filed in this matter as well as the record made before the HRC. After a thorough review of this matter, the Court hereby makes the following findings of fact and conclusions of law:

Findings of Fact

1. The Petitioner, PAR, appeals from a final order entered by the HRC on May 8, 2008, wherein the HRC adopted, without modification, the Final Decision of the ALJ issued on January 30, 2008.

2. The ALJ held in favor of the Respondent, Richard Wayne Bevelle, on his complaint of

racial discrimination and retaliation, and granted him relief consisting of damages for lost wages, humiliation, embarrassment, emotional distress and loss of personal dignity as well as attorney fees and costs.

3. This Court has reviewed the detailed findings of fact set forth in the twenty-seven (27) separately numbered paragraphs by the ALJ and finds that the same are supported by substantial evidence or are unchallenged by the parties. Accordingly, this Court incorporates by reference in their entirety those separate findings as though the same were set forth fully herein.

Conclusions of Law

1. Findings of fact made by an administrative law judge, and affirmed by the West Virginia Human Rights Commission, should be sustained by a reviewing court if they are supported by substantial evidence or are unchallenged by the parties. *Tom's Convenient Food Mart, Inc. v. West Virginia Human Rights Commission*, 206 W.Va. 611, 527 S.E.2d 155 (1999).

2. This Court has reviewed the conclusions of law made by the HRC in this case and finds the same are not in violation of constitutional or statutory provisions, do not exceed the statutory authority of the HRC or its jurisdiction, are not erroneous or clearly wrong and are not arbitrary, capricious or characterized by an abuse of discretion. *Gino's Pizza of West Hamlin v. West Virginia Human Rights Commission*, 187 W.Va. 312, 418 S.E.2d 758 (1992). Accordingly, this Court incorporates by reference in their entirety those conclusions of law as though the same were set forth fully herein.

Orders

Therefore, this Court affirms in its entirety the final order of the West Virginia Human Rights Commission entered on May 8, 2008, which adopted, without modification, the final decision of the Administrative Law Judge issued on January 30, 2008.

Accordingly, it is hereby **ORDERED AND ADJUDGED** that the final order of the West Virginia Human Rights Commission entered on May 8, 2008, is hereby **AFFIRMED** in its entirety, and the relief awarded by the West Virginia Human Rights Commission to Richard Wayne Bevelle and against PAR Electrical Contractors, Inc., be, and the same is, hereby **AFFIRMED**.

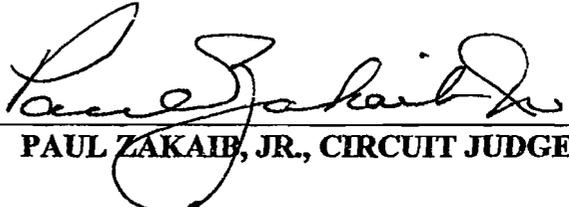
Furthermore, this Court directs that the Clerk leave this matter upon the Court's docket so that the Court may consider Richard Wayne Bevelle's request that he be awarded additional attorney fees and costs incurred in defending this appeal.

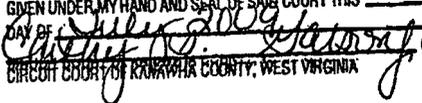
Counsel for Richard Wayne Bevelle shall be granted leave to file a motion for attorney fees and costs incurred in defending this appeal and shall submit said motion and any supporting documentation to the Court no later than thirty (30) days from the date of entry of this Order.

Counsel for Par Electrical Contractors, Inc. shall submit any response to said motion for attorney fees and costs incurred in defending this appeal within thirty (30) days of the date of submission of said motion by counsel for Richard Wayne Bevelle.

6. The objection and exception of any party aggrieved by this Order are duly noted and preserved.

Enter this 29th day of July, 2009.


PAUL ZAKARIA, JR., CIRCUIT JUDGE

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CATHY S. GATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY
AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE COPY FROM THE RECORDS OF SAID COURT
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS 30th
DAY OF July, 2009.
 CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA