BEFORE THE ADMINISTRATIVE LAW JUDGE
FOR A HUMAN RIGHTS COMMISSION HEARING

WASHINGTON STATE HUMAN RIGHTS COMMISSION,
presenting the case in support of the complaint filed by Colleen Morrison

Complainant,

v.

HANEY TRUCK LINE, LLC,

Respondent.

Complainant Washington State Human Rights Commission ("the Commission") submits this amended complaint and states as follows:

I. UNFAIR PRACTICES ALLEGED

1. Respondent Haney Truck Line, LLC ("Haney") discriminated against its former employee, Colleen Morrison ("Morrison") in violation of the Washington Law Against Discrimination, RCW 40.60. Despite Ms. Morrison having repeatedly informed Haney that she has hypoglycemia and relies on a trained dog to alert her to low blood sugar levels, Haney prohibited Ms. Morrison from bringing her trained dog to work. In so doing, Haney discriminated against Ms. Morrison because of her use of a service animal in violation of RCW 49.60.030 and RCW 49.60.180.
II. JURISDICTION

2. The Commission has jurisdiction to prosecute this case. See RCW 49.60.240 and RCW 49.60.250. RCW 49.60.240 authorizes the Commission to investigate complaints of discrimination and, once it makes a finding of reasonable cause to believe discrimination has occurred, to seek relief for such discrimination. If an agreement to eliminate the unfair practice is not reached, RCW 49.60.250 allows the Commission to request appointment of an administrative law judge to hear its complaint.

III. FACTUAL BASIS FOR ALLEGATIONS


4. Ms. Morrison started working for Haney on May 13, 1997, in its Payroll and Billing Department in Yakima. Her job title was accounts payable manager. Her duties included reviewing invoices and check receipts, processing check requests, reconciling payments, and other clerical duties related to payroll and billing.

5. Ms. Morrison has hypoglycemia. Ms. Morrison’s hypoglycemia is a physical impairment that is medically cognizable or diagnosable, and/or exists as a part of Ms. Morrison’s record or history. Ms. Morrison’s hypoglycemia is a disability pursuant to RCW 49.60.040(7)(a).

6. In approximately October of 2010, Ms. Morrison obtained, Lucky, an Australian Shepherd. After being diagnosed with hypoglycemia, Ms. Morrison trained Lucky to become a diabetic alert dog. In addition to enrolling Lucky in several behavior training classes, Ms. Morrison trained Lucky to do hypoglycemic alerts pursuant to standards established by the Seattle Service Dog Academy. Lucky has passed a Canine Good Citizen test and Public Access Test. Ms. Morrison uses Lucky for the
purpose of assisting or accommodating her hypoglycemia pursuant to RCW 49.60.040(24).

7. On April 2, 2012, Ms. Morrison provided written notice to Haney’s Human Resource Manager, Angie Stickney, that she is hypoglycemic and requested that she be allowed to bring her service animal to work. Specifically, Ms. Morrison informed Ms. Stickney that Lucky was in training to alert her when her blood sugar starts to drop.

8. Ms. Morrison’s request was supported by a doctor’s note, dated March 18, 2012, from her medical provider, Richard Wilkinson, M.D. Dr. Wilkinson stated the following:

“Colleen Morrison is my patient. I am treating her for several medical conditions. Colleen uses a Service Dog to assist her in managing these conditions, and I support her in doing so. It is my opinion that Colleen’s service dog is medically necessary to her. Please accommodate her and her Service Dog as requested.”

9. On April 4, 2012, Ms. Morrison notified Ms. Stickney that Lucky was no longer in training, but was now a service animal, trained to alert her to a drop in her sugar levels, which gives her time to test her blood sugar levels and to resume her work.

10. On or about April 6, 2012, Ms. Stickney notified Ms. Morrison that her “request for accommodation has been declined.” No reason for Haney’s denial was provided.

11. On April 20, 2012, Ms. Morrison requested a written response clarifying Haney’s denial of her request and reconsideration of its denial. Ms. Morrison noted that her blood sugar had recently dropped to a dangerously low number while at work and that Lucky would have alerted her to the hypoglycemic event before she entered the danger zone. Ms. Morrison further noted that she had supplied a letter from her doctor and offered to bring in an air cleaner to use in her office if there were concerns about allergens.
12. That same day, Ms. Stickney replied and requested Ms. Morrison meet with her that afternoon to discuss several questions about her medical condition, reasonable accommodation request and the status of Lucky's training as a Service Animal.

13. On April 24, 2012, Ms. Stickney sent Ms. Morrison a letter that confirmed Haney had verbally declined Ms. Morrison's request to bring her service animal into work. Ms. Stickney did not raise any concerns about Lucky presenting a risk to Haney's property or other persons. Ms. Stickney instead offered several alternatives to allowing Ms. Morrison to bring her service animal into work: (1) allow Ms. Morrison necessary time to check blood sugar levels at intervals determined by her doctor, (2) allow Ms. Morrison time to take medications and eat to maintain appropriate blood sugar levels, (3) allow Ms. Morrison to bring an alarm clock or timer to work to remind herself to check her blood sugar levels, and (4) allow Ms. Morrison to leave her service animal in her personal vehicle in a reserved parking place in the shade.

14. On June 6, 2012, Ms. Morrison provided a second note from another medical provider, Dr. William W. Robinson. In the note, Dr. Robinson explained that Ms. Morrison had been diagnosed with hypoglycemia, Major Depression, Anxiety, and Panic Attacks and that Ms. Morrison's hypoglycemia symptoms include: shakiness, dizziness, confusion, difficulty paying attention, sweating, headache, sudden behavior changes, clumsy or jerky movements, seizure, and coma. Dr. Robinson stated:

"Colleen does not feel or recognize the symptoms of hypoglycemia and cannot tell when blood glucose levels are dropping below a safe level and so does not know to take action to bring glucose levels back up. In addition to unawareness, a person's body may not respond properly. Someone with hypoglycemia unawareness may not respond immediately to treatment and the hypoglycemia may last longer.

Since this is a dangerous condition Colleen uses a trained Service Dog to alert her to sudden drops in her blood glucose level, it is my opinion that Colleen's Service Dog is medically necessary for her to manage her condition at work. The essential functions of her job (paying invoices, editing, printing invoices, researching discrepancies, setting up electronic funds transfers, data entry,
corresponding with vendors, etc.) cannot be performed during a hypoglycemic episode or during recovery from an episode. Her Service Dog is a tool she can use to prevent a drop from the start.

Colleen’s Service Dog also is trained to prevent anxiety attacks, and help manage major depression by tasks that he performs. He also alerts her to chemical sensitivities. A task list is attached.

Please accommodate Colleen and her Service Dog during her working hours.

15. On June 11, 2012, Ms. Morrison sent Ms. Stickney an email to inquire about Haney’s response to the updated information Ms. Morrison provided. Ms. Morrison also asked if she needed to re-submit her request and, “[i]f so, [she] [was] doing so now.” Ms. Morrison stated, “I am still having trouble because if my blood sugar drops too low while I am working I am not able to function very well until it is normal again. I really would like to be able to prevent it in the first place by using my service dog. Please let me know if there is anything more I can do to convince Haney that I am serious about this.”

16. On June 14, 2012, Ms. Stickney sent a reply e-mail message to Ms. Morrison’s June 11, 2012 email, stating the following:

“Colleen, we do take your request for accommodation seriously. We have gone above and beyond what is required and have considered and considered your request on two separate. [sic]

During our last conversation, you were specifically asked “what part of your job can you not perform due to your condition”; you indicated that your condition does not affect your job (unless you were to faint or something). Because the condition does not limit your ability to perform the essential functions of your job, no accommodation is needed.

Out of courtesy to you and your tenure with Haney, we have proceeded with the interactive process with you. It was explained during that process that we would allow you to take additional breaks to check your blood sugar and to eat if necessary. We have also allowed Lucky to be on premises and have provided you with a reserved parking spot in the shade so that he could be in your vehicle so you could spend time with him during work hours and breaks.

We appreciate your continued professionalism and the hard work you do for Haney.”
17. On June 14, 2012, Ms. Morrison sent a reply email to Ms. Stickney. She thanked Ms. Stickney for the parking spot in the shade. She also stated, “When you asked me if I could do my job I said yes I can because I thought that if I said no it would be grounds for being fired.” Ms. Morrison then provided a list of the symptoms of hypoglycemia, including: double or blurry vision; fast or pounding heartbeat; feeling cranky or acting aggressive; feeling nervous; headache; hunger; shaking or trembling; sleeping trouble; sweating; tingling or numbing of skin; tiredness or weakness; and unclear thinking. Ms. Morrison explained that she may have a blood sugar drop without symptoms, and the result may include fainting, seizures and coma. When symptoms occur, Ms. Morrison cannot continue working, but must take time to check her blood levels, eat, and wait until she feels better, and that the after-effects will last the entire day. Ms. Morrison reminded Ms. Stickney that Lucky had completed his training as a service animal to alert Ms. Morrison before symptoms occur; she had submitted several notes from her doctor; offered to keep Lucky in a crate; would purchase an air filter for the office; and asked that Ms. Stickney allow Lucky “to do the job he is trained for.”

18. On June 15, 2012, Ms. Stickney replied to Ms. Morrison’s email, stating that Ms. Morrison’s job was not in jeopardy, but Haney was “trying to make a determination as to what, if any, accommodation was needed, and we have worked with you [sic] during this situation in a positive and supportive way (with the exception of accommodating your specific request)...if symptoms of hypoglycemia appear, we will allow you time away from your desk, time for eating and recovery, etc.”

19. On December 17, 2012, Ms. Morrison’s endocrinologist, Dr. Gary L. Treece, provided her a third note to provide Haney, which stated:

“[Colleen Morrison] has reactive hypoglycemia which is only partially controllable through dietary management. As a result, she has episodes of hypoglycemia, often severe, that require a prolonged recovery. Prevention of
the serve episodes is the goal and progress is being made towards that end. However, she is sometimes unable to detect an episode until it is too late. However, she has acquired a Hypoglycemia Detecting Service Dog who is able to detect the early stages of hypoglycemia and warn the patient who can then treat herself and prevent a more severe episode. Therefore it is deemed medical necessary for her to [sic] able to bring her Service Dog to work with her and be at her side throughout the workday. This medical necessity will be required for the indefinite future.”

20. On December 21, 2012, Ms. Stickney wrote Dr. Treece a letter in response, inquiring about Ms. Morrison’s need for a service animal. In the letter, Ms. Stickney asked several questions about Ms. Morrison’s need for a service animal. Dr. Treece mailed his response directly to Ms. Stickney shortly thereafter.

21. In the letter, Ms. Stickney asked, “Is there a non-evasive [sic] monitoring system that is available for glucose monitoring?” Dr. Treece responded, “Yes, a service dog (all others are invasive).” Further, Ms. Stickney’s letter asked, “Ms. Morrison has indicated that her service animal detects a drop in blood sugar right away. Is it acceptable if she be permitted to take breaks each hour (or more frequently) to have access the dog [sic], rather than having the dog at her desk?” Dr. Treece responded, “The dog can only detect the patients low blood glucose when they are together.”

22. On January 22, 2013, Dr. Robinson provided a fourth letter letter, stating “She has a dog assistant that alerts her when her blood sugars are low. . . . Please make this consideration and accept the fact that both Dr. Treece and I are consistent in understand [sic] the need for the dog to accomplish this for her.”

23. Despite Dr. Robinson and Dr. Treece’s letters, Haney still refused to allow Ms. Morrison to bring her service animal to work.

24. On November 8, 2013, Ms. Morrison was forced to resign. Because Haney refused Ms. Morrison’s service animal request, she had had to eat constantly at work in order to keep her blood sugar levels up. She ate every half hour. Further, she had to keep
up with Lucky’s training during her breaks, so she drove Lucky to and from work and left him in the car while she was working. When the weather was too hot or too cold, she had to drive Lucky home over her lunch break. She resigned because Haney’s refusal to allow Lucky to accompany her at work caused her to constantly eat and resulted in weight gain, approximately 30 pounds, and anxiety, which significantly impacted her health.

25. Haney’s refusal to allow Ms. Morrison to bring her service animal to work resulted in Ms. Morrison being denied an equal opportunity to work in violation of the WLAD. See RCW 49.60.180(3) (“[I]t is an unfair practice for any employer “to discriminate against any person in . . . [the] terms or conditions of employment because of . . . the use of a trained dog guide or service animal by a person with a disability.”).

26. Medical documentation provided to Haney indicated that a service animal would assist Ms. Morrison in avoiding the debilitating effects that exacerbate her hypoglycemia. Yet, Haney’s refusal to allow Ms. Morrison to bring her service animal to work substantially limited her ability to perform the essential functions of her job and enjoy equal access to the benefits and privileges of employment.

27. “[T]o request that a trained dog guide or service animal be removed from the workplace,” is an “unfair practice.” WAC 162-22-100. Since Ms. Morrison’s service animal did not pose an unreasonable risk to property or other persons, id., Haney should be found liable for an unfair practice.

28. Haney would not have suffered an undue hardship by allowing Ms. Morrison to bring her service animal to work. WAC 162-22-025. Haney is liable for failing or refusing to make a reasonable accommodation for Ms. Morrison’s use of a trained dog guide or service animal. As indicated by Ms. Morrison’s doctors, none of the alternative accommodations Haney offered would suffice.
29. As a proximate cause of Haney's discrimination, Ms. Morrison has suffered damages including lost wages and benefits from having to resign from her position at Haney, expenses incurred due to Haney's failure to allow Ms. Morrison to bring her service animal into work, inconvenience caused by participating in the investigation and prosecution of her discrimination complaint, pain and suffering, financial hardship, embarrassment, humiliation, depression, increased anxiety, emotional distress, and other damages to be proved at hearing.

IV. REQUEST FOR RELIEF

30. Ms. Morrison should be awarded back pay, reinstatement or front pay, including all fringe benefits; expenses incurred due to Haney's failure to allow Ms. Morrison to bring her service animal into work; inconvenience caused by participating in the investigation and prosecution of her discrimination complaint; pain and suffering; financial hardship; embarrassment; humiliation; depression; increased anxiety; emotional distress; and other damages to be proved at hearing.

31. Haney employees who participate in management activities should be ordered to attend a complete session of equal employment opportunity training approved by the Commission and/or the Attorney General's Civil Rights Unit.

32. Haney should be enjoined from discriminating against persons with a disability based on their use of a trained dog guide or service animal, and should be required to change its policies and procedures to comply with this injunction.

33. Haney should revise its employee manual to clarify that its policies and procedures comply with this injunction and that Haney welcomes service animals at its workplace.

34. Other equitable relief which this tribunal finds necessary to eliminate the effects of past discrimination, to prevent future discrimination, and to position Ms. Morrison as close as possible to the situation she would have been in but for Haney's
discrimination. This includes retaining jurisdiction if necessary to fully effectuate
this tribunal's order.

DATED this 17th day of February, 2016

ROBERT FERGUSON
Attorney General

MARSHA CHIEN, WSBA No. 47020
Assistant Attorney General
Attorney for the Washington State Human Rights
Commission
I, Sharon Ortiz, Executive Director of the Commission, verify that I have reviewed the above amended complaint and that the unfair practices charged, the factual allegations set forth, and the relief requested are true, correct and appropriate to the best of my knowledge and belief.

Signed this 17 day of February 2016

Sharon Ortiz
Executive Director
Washington State Human Rights Commission
DECLARATION OF SERVICE

I certify that I served a copy of this document on all parties or their counsel of record on the date below as follows:

☑ USPS Certified Mail
Gary E. Lofland
230 S. Second Street
Yakima, WA 98907

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 23rd day of February, 2016 at Seattle, Washington.

CHAMENE WOODS