

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
BEFORE THE RHODE ISLAND STATE LABOR RELATIONS BOARD

IN THE MATTER OF	:	
	:	
RHODE ISLAND STATE LABOR	:	
RELATIONS BOARD	:	
	:	
-AND-	:	CASE NO. ULP-6258
	:	
	:	
STATE OF RHODE ISLAND -	:	
DEPARTMENT OF LABOR & TRAINING	:	

CONSENT ORDER

By agreement of the parties, the RI State Labor Relations Board ("SLRB") makes the following findings of facts:

1. Tanya Signore ("Ms. Signore") is a former employee of the State of Rhode Island, Department of Labor & Training ("DLT" or "the Respondent").
2. Ms. Signore worked at the Unemployment Insurance Call Center, where she held a position with the job title, "Senior Employment and Training Interviewer".
3. The Rhode Island Employment Security Alliance, Local 401 ("the Union") is the certified collective bargaining representative for employees in Ms. Signore's job title at DLT.
4. There was at all times relevant to this case a valid collective bargaining agreement in effect between the Respondent and the Union. .
5. The Respondent terminated Ms. Signore's employment effective May 6, 2016.
6. The Union filed two grievances concerning the termination of Ms. Signore's employment: one grievance alleged discrimination and failure to accommodate Ms. Signore's disability as required by the Americans with Disabilities Act ("ADA") and the other grievance alleged that Ms. Signore was dismissed without just cause.
7. The two grievances proceeded to and were consolidated for arbitration.
8. On August 17, 2018 the Arbitrator issued her award.
9. The underlying facts concerning the termination of Ms. Signore's employment are set forth in the arbitration award.
10. The Arbitrator ruled that Ms. Signore's discharge was not for just cause because the Respondent did not provide a job coach who was experienced in working with obsessive compulsive disorder ("OCD") and thereby failed to reasonably accommodate Ms. Signore's disability.

11. The Arbitrator ordered the Respondent to reinstate Ms. Signore to her former position at DLT, with back pay, and to “engage an OCD-experienced job coach to work with [Ms. Signore] for a reasonable period of time with the goal of helping her to be able to perform the essential functions of the unemployment insurance call center position.”
12. The Arbitrator retained jurisdiction for 90 days in order to resolve any disputes relating to the implementation of the award.
13. Upon receipt of the arbitration award, the Respondent began to search for “an OCD-experienced job coach” to work with Ms. Signore upon her reinstatement to the DLT job, as ordered by the arbitrator.
14. The Respondent contacted the State Office of Rehabilitative Services, the Providence Center (the community mental health center serving the Providence area), Thrive (the community mental health center serving Kent County), the OCD Program at Butler Hospital, the Seven Hills Foundation (which had previously provided a job coach for another State employee), and the Hollowell Center for Cognitive and Emotional Health in Sudbury, Massachusetts (to which DLT sometimes refers clients for assistance with employment issues).
15. None of the agencies contacted by the Respondent acknowledged that they would be able to provide an “OCD-experienced” job coach to work with Ms. Signore.
16. The Seven Hills Foundation advised that it served only clients with developmental disabilities (not mental health issues such as OCD), and the “Career Counseling Specialist” on the staff of the Hollowell Center in Massachusetts indicated that she had no experience working with clients with OCD.
17. Both Thrive (the mental health center serving Kent County) and the OCD Program at Butler Hospital advised that they require Ms. Signore to enroll as a client so that their clinical staff could assess her to determine whether job coaching was appropriate.
18. The Respondent also attempted on its own to recruit an OCD-experienced job coach by advertising through Adil Business Systems, a private vendor under contract with the State to provide specialized temporary employees to the State, but the Respondent did not receive applications from any qualified applicants.
19. On September 10, 2018 the Respondent wrote to Ms. Signore’s therapist, Dr. Julie Lucier (“Dr. Lucier”) to ask whether Dr. Lucier knew of any OCD-experienced job coach.
20. Dr. Lucier did not respond to the Respondent’s letter of September 10, 2018.
21. On September 27, 2018 the Respondent wrote to Ms. Signore to request that she and Dr. Lucier assist the Respondent to identify and select a qualified job coach.

22. On October 3, 2018 Dr. Lucier wrote to the Respondent: "It is my clinical opinion that it is in Tanya's best interest to not return to her position at the unemployment insurance call center."
23. On October 30, 2018 the Respondent requested that the Arbitrator amend her award to excuse the Respondent from the remedy which the Arbitrator had ordered.
24. On October 30, 2018 the Union submitted to the Arbitrator its objection to the Respondent's request for relief from the arbitration award.
25. On November 5, 2018 Dr. Lucier notified the employer that Ms. Signore was "able and available for full-time work."
26. On November 18, 2018 the Arbitrator issued a second award in which she denied the Respondent's request to amend her award and/or to grant the Respondent any relief from the remedy which she had previously ordered.
27. On November 30, 2018 the Respondent directed Ms. Signore to report to work on December 10, 2018 and on that same date to submit a medical release from Dr. Lucier clearing Ms. Signore to return to work in her job at DLT.
28. On December 10, 2018, Ms. Signore and her Union representatives met with Respondent's representatives. At that time, Ms. Signore did not provide a release for her return to work from Dr. Lucier, although Ms. Signore indicated that she had an upcoming appointment with Dr. Lucier.
29. At the conclusion of the December 10, 2018 meeting the Respondent sent Ms. Signore a follow-up letter which summarized the discussions which took place at that meeting.
30. On January 29, 2019 Dr. Lucier cleared Ms. Signore to return to her job at DLT, although Dr. Lucier also opined that it was not in Ms. Signore's "best interest" to return to that position.
31. On March 6, 2019 the Respondent requested that Ms. Signore or the Union notify the Respondent by March 15 whether Dr. Lucier would refer Ms. Signore to a clinical program for assessment of possible job coaching.
32. On March 14, 2019 the Union's Attorney forwarded to the Respondent a message from Ms. Signore which said that neither Ms. Signore nor Dr. Lucier were "interested" in a job coach.
33. On April 2, 2019 the Respondent notified Ms. Signore (1) that it would make no further attempt to find a job coach or to reinstate Ms. Signore to her former position at DLT; and (2) that it would pay Ms. Signore back pay from the date of termination (May 6, 2016) to the date of the arbitration award (August 17, 2018).

34. By April 30, 2019 the Respondent had paid Ms. Signore a total of \$91,2543.11 (gross) in back pay, less deductions for state and federal taxes and the employee's share of the retirement contribution.
35. On August 2, 2019, the Union's Attorney advised that the Union did not take issue with the Respondent's decision not to reinstate Ms. Signore to her former position at DLT.
36. In her August 2, 2019 letter, the Union's Attorney identified two outstanding issues related to the implementation of the arbitration award: (1) reimbursement to Ms. Signore for vacation leave which accrued following the termination of her employment, and (2) the Respondent's "failure to pay [Ms. Signore] through the date when Dr. Lucier indicated that she was not capable of returning to work".
37. On April 4 and 5, 2019, the Union Attorney and the Respondent's Attorney exchanged emails concerning the deduction of union dues from Ms. Signore's back-pay.
38. On April 10, 2019 the Respondent's Attorney advised the Union's Attorney that it was not the State's practice to deduct union dues from back-pay.
39. By April 10, 2019 Ms. Signore had submitted to the Respondent documents related to the expenses which she incurred for healthcare following the termination of her employment in May of 2016.
40. On November 7, 2019 the Union's Attorney sent to the Respondent's Attorney an email in which she cited Article 3.1a of the parties' collective bargaining agreement, which requires the deduction of union dues or agency service fees from back-pay which is awarded when an employee is reinstated upon successful appeal of a dismissal.
41. The Respondent has not reimbursed Ms. Signore for any vacation leave which accrued following her dismissal in May of 2016.
42. The Respondent has not reimbursed Ms. Signore for any health-care expenses which she incurred following the termination of her employment in May of 2016.
43. The Union has not been reimbursed for dues or agency service fees which accrued following the termination of Ms. Signore's employment in May of 2016.
44. Ms. Signore is responsible to pay the union dues out of any subsequent payment which she receives from the Respondent in relation to this matter. If the amount owed to her, if any, is insufficient to satisfy the total amount of the union dues or agency service fee which she owes to the Union, the Respondent shall be responsible to pay the difference.
45. There being no material dispute of facts, the parties have agreed to waive a formal hearing in this matter scheduled for December 12, 2019.

46. The parties have agreed upon the exhibits, which will be submitted without objection by either party, when the parties file their briefs.

ORDER

Based on the foregoing and upon agreement of the parties, the following order shall enter that the matter shall be briefed thirty (30) days from notification by the Board Administrator upon granting of this order.

On behalf of the State
By its Attorney,

/s/ Sue Ellen Dunn

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On behalf of the Union
By its Attorney,

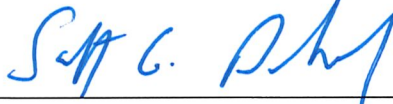
/s/ Carly Beauvais Iafrate

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RHODE ISLAND STATE LABOR RELATIONS BOARD



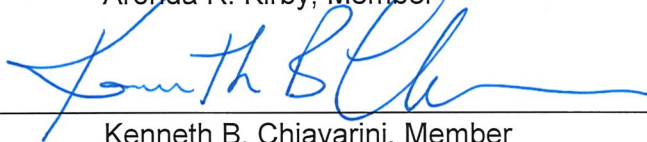
Walter J. Lanni, Chairman



Scott G. Duhamel, Member



Aronda R. Kirby, Member




Kenneth B. Chiavarini, Member



Derek M. Silva, Member

Entered as an Order of the
Rhode Island State Labor Relations Board

Dated: JANUARY 14 2020

By: 
Robyn H. Golden, Administrator