COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

G.D.,	:	
Complainant	:	
	:	
v,	:	PHRC CASE NO. 200705453
	:	HUD Charge No. 03-08-0334-8
Canal Side Care Manor, LLC d/b/a	:	
Canal Side Care Manor and	:	
Lakshmi Kademani,	:	
Respondents	:	

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DISSENT

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

G.D., Complainant	PHRC Case No: 200705453
v.	
CANAL SIDE CARE MANOR, LLC, d/b/a CANAL SIDE CARE MANOR and LAKSHMI KADEMANI, Respondents.	HUD Case No: 03-08-0334-8

JOINT STIPULATION OF FACTS

Complainant G.D., and Respondents, Lakshmi Kademani and Canal Side Care Manor, LLC, hereby stipulate that the following facts are true and correct and no proof thereof shall be required.

1. The Complainant herein is Gladys Davis (hereinafter "Complainant"). On September 18, 2009, at the Prehearing Conference, the Parties stipulated that Complainant would be referred to as G.D. in the caption of this Complaint.

2. The Respondents herein are Lakshmi Kademani (hereinafter "Respondent Owner") and Canal Side Care Manor, LLC, d/b/a Canal Side Care Manor (hereinafter "Respondent Company").

3. Respondent Owner, at all times relevant to the case at hand, was the owner and administrator of Respondent Company.

4. On or about April 21, 2008, Complainant timely filed a verified complaint against Respondent Owner and Respondent Company, at docket no. 200705453, with the Pennsylvania Human Relations Commission (hereinafter Commission). A copy of the Complaint will be included as a docket entry at the time of hearing.

5. Respondent Owner and Respondent Company, on July 1, 2008, answered the Complaint. A copy of the Answer will be included as a docket entry at the time of hearing.

6. In correspondence dated January 26, 2009, Commission staff notified the Complainant and Respondents that probable cause existed to credit the allegations found in the complaint.

8. Conciliation has been attempted but so far the conciliation efforts have failed to resolve the matter.

9. In correspondence dated August 4, 2009, Commission staff notified the Complainant and Respondents that a public hearing had been approved.

10. On September 18, 2009, during the Prehearing Conference, the Parties stipulated that HIV is a qualifying disability under the PHRA.

11. On December 17, 2009, Complainant filed a First Amended Complaint against Respondents. A copy of the First Amended Complaint will be included as a docket entry at the time of the hearing.

12. On January 5, 2010, Respondents answered the First Amended Complaint. A copy of the Answer to the First Amended Complaint will be included as a docket entry at the time of the hearing.

Stephanie M. Chapman — 4/8/10
Stephanie M. Chapman
Assistant Chief Counsel
(Counsel for the Commission
in support of the complaint)
Date

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FINDINGS OF FACT*

1. To maintain and preserve confidentiality, the Complainant in this case shall be referred to as G.D. (hereinafter "G.D."). (S.F.1).

2. G.D. is a 36 year old female individual who has been living with HIV since being diagnosed in 1998. (N.T. Vol 1 at 118-24; R.E. 7 at 53; RE 10 at 420).

3. The Respondents are Canal Side Manor, LLC d/b/a Canal Side Manor, (hereinafter "Canal Side"), and Lakshmi Kademani, (hereinafter "Kademani"). (S.F. 2).

4. G.D. is the mother of three children ages 16, 14, and 12. (N.T. Vol 1 at 141).

5. In 2006, G.D. was living in New Jersey and was embroiled in custody issues with respect to her children. (N.T. Vol 1 at 69; R.E. 10 at 10).

6. At the time, G.D.'s sister, Queen D., lived in Easton, Pa, with her husband and her four children. (R.E. 10 at 8).

7. G.D. has three sisters and three brothers. (R.E. 10 at 8).

* The foregoing "Stipulations of Facts" are hereby incorporated herein as if fully set forth. To the extent that the Opinion which follows recites facts in addition to those here listed, such facts shall be considered to be additional Findings of Facts. The following abbreviations will be utilized throughout these Findings of Fact for reference purposes:

N. T. Vol 1	Notes of Testimony, April 8th, 2010
N. T. Vol 2	Notes of Testimony, April 9th, 2010
C. E.	Complainant's Exhibit
R. E.	Respondents' Exhibit
S. F.	Joint Stipulation of Facts

8. In May 2006, Queen D. visited G.D. in New Jersey for three days and discovered that G.D. was experiencing problems and struggling. (N.T. Vol 1 at 69, 70, 89).

9. Queen D. called her husband to discuss bringing G.D. and her children back to Easton to live with her. (N.T. Vol 1 at 70).

10. In or about May 2006, Queen D. brought G.D. and her children to live with her in Easton. (N.T. Vol 1 at 69; R.E. 10 at 24).

11. Subsequently, Queen D. became G.D.'s Power of Attorney and Health Care Proxy. (N.T. Vol 1 at 86, 88; C.E. 3; R.E. 10 at 9).

12. In addition to living with HIV, G.D. is also bipolar and schizophrenic. (N.T. Vol 1 at 88, 89).

13. Beginning in July 2006, G.D. received treatment at Easton Community Hospital and was a patient of Jamie Bloss, (hereinafter "Bloss"), a care coordinator, nurse practitioner. (N.T. Vol 1 at 163, 164, 166).

14. G.D. also received outpatient care at Lehigh Valley Mental Health in Bethlehem, Pa. (R.E. 10 at 22).

15. In 2006, for a period of several months while living with Queen D., G.D. did not speak with Queen D. (N.T. Vol 2 at 75; R.E. 10 at 33-34).

16. Initially, G.D. was depressed, experienced nightmares, she was bald, and she was scared and had to wear diapers because G.D. had urinary incontinence. (N.T. Vol 2 at 79; R.E. 10 at 22, 25, 27, 88-89).

17. In 2007, G.D. moved from Queen D.'s home to a group home on Main Street in Bethlehem, Pa. (N.T. Vol 1 at 7; N.T. Vol 2 at 12; R.E. 8 at 24).

18. The group home was interchangeably called Step by Step and Main Street. (N.T. Vol 1 at 235-235; N.T. Vol 2 at 7).

19. Step by Step is a human services agency community residential rehabilitation program principally designed to assist individuals move towards greater independent living. (N.T. Vol 1 at 71, 199, 206).

20. Many Step by Step clients have developmental disabilities or mental illness or both. (N.T. Vol 2 at 7).

21. Step by Step was run by two women, Marie, a staff member, and Tracey, the director of the group home. (N.T. Vol 1 at 94, 207, 208, 234-235; N.T. Vol 2 at 39; R.E. 8 at 56).

22. Some Step by Step clients graduate from the group home setting into more stable independent living situations while others are directed to personal care homes. (N.T. Vol 2 at 12).

23. Assisting Step by Step clients are Intensive Case Managers, (hereinafter "ICM"), who are supervised by Cherie Zettlemoyer, (hereinafter "Zettlemoyer"). (N.T. Vol 2 at 7-8).

24. ICM's assist clients by accompanying them to doctor's appointments, providing assistance in searching for jobs, and finding transportation and generally rendering assistance. (N.T. Vol 1 at 201).

25. Following G.D.'s October 2007 intake to enter the ICM program, Aurora Valle was assigned to be G.D.'s IMC. (N.T. Vol 1, 200, 231; N.T. Vol 2 at 11).

26. Aurora Valle subsequently married and is now Aurora Anaya, (hereinafter "Anaya"). (N.T. Vol 1 at 283).

27. Anaya is an ICM for Step by Step's young adult program. (N.T. Vol 1 at 200).

28. When Anaya met G.D. in October 2007, G.D. disclosed that she has HIV. (N.T. Vol 1 at 231).

29. Several additional times G.D. disclosed this information to Anaya. (N.T. Vol 1 at 232).

30. Anaya informed G.D. that she did not have to disclose this information. (N.T. Vol 1 at 232).

31. At some point, G.D. developed the virus commonly known as shingles. (N.T. Vol 1 at 156; R.E. 7 at 52-53).

32. Shingles is caused by the virus varicella zoster, aka the chickenpox virus. (N.T. Vol 1 at 44).

33. After an individual has had the chickenpox, the virus lays dormant in the spine's nerve system roots and stays there until the body's immune system tires and the vrius breaks out as a blistering rash. (N.T. Vol 1 at 44-46).

34. As long as the blistering shingles are fluid filled, the individual is contagious to those who have never had chickenpox. (N.T. Vol 1 at 46).

35. The period of contagion is generally four to five days. (N.T. Vol 1 at 47).

36. While living at Step by Step's group home, G.D. experienced problems with basic daily living skills, hygiene and urinary incontinence. (N.T. Vol 1 at 206).

37. With respect to G.D.'s urinary incontinence, G.D. was put on both a queuing program and a training program where G.D. would constantly be reminded to go to the bathroom. (N.T. Vol 1 at 71; R.E. 10 at 53, 55).

38. Whether G.D. would be reminded every hour and a half, every hour, or even every half hour, by December 2007, G.D.'s urinary incontinence had not improved. (N.T. Vol 1 at 71; R.E. 10 at 95).

39. While residing at Step by Step, G.D. wore a diaper everyday. (R.E. 10 at 118).

40. Periodically, Step by Step would meet with G.D., Anaya and Queen D. to discuss G.D.'s needs. (N.T. Vol 1 at 72).

41. Periodically, Step by Step also called Queen D. to discuss G.D.'s progress. (N.T. Vol 1 at 92).

42. By November and December 2007, Queen D. was being informed that G.D. has severe bladder incontinence. (N.T. Vol 1 at 92).

43. In a meeting about G.D., Queen D. and Anaya were told both queuing and training had failed and a discussion ensued regarding whether it was time to secure another level of care for G.D. (N.T. Vol 1 at 94, 97, 234-235; R.E. 8 at 56).

44. Collectively, the Step by Step staff, Anaya and Queen D. decided that G.D. needed more care and supervision and that G.D. should be in a personal care home. (N.T. Vol 1 at 71; R.E. 10 at 48-49).

45. G.D. testified that she was annoyed at Step by Step because the staff was on her back about every little thing. (R.E. 7 at 44).

46. G.D. offered that she hated Tracy and wanted to hit her. (R.E. 7 at 45-52).

47. G.D. also indicated that she and Tracy argued about G.D.'s children. (R.E. 7 at 52, 112).

48. G.D. further testified that she also did not like Marie because she believed Marie nagged her. (N.T. 7 at 52, 98).

49. Queen D. and Zettlemoyer decided that the reason G.D. had to leave Step by Step's group home was her severe bladder incontinence. (N.T. Vol 2 at 33, 46; R.E. 10 at 53, 55).

50. For several months Step by Step staff member Marie attempted to locate an alternate living arrangement for G.D. (N.T. Vol 1 at 72, 197).

51. One place Marie called was Canal Side, located in Walnutport, Pa. (N.T. Vol 1 at 197, 207; N.T. Vol 2 at 91-92, 129; R.E. 9 at 24).

52. Canal Side is registered by the Commonwealth's Department of Public Welfare as a personal care home and is governed by DPW's regulations. (N.T. Vol 2 at 82, 85).

53. Canal Side specializes in caring for low income individuals suffering from mental illness, and who have no other place to live. (N.T. Vol 2 at 82, 134).

54. Kademani is the sole owner and Administrator of Canal Side. (N.T. Vol 2 at 130; R.E. 9 at 22).

55. Canal Side is a 62 bed facility and its residents are both men and women. (N.T. Vol 1 at 326; N.T. Vol 2 at 105; R.E. 9 at 55; R.E. 11 at 46).

56. Canal Side consists of two buildings: one smaller building housing Canal Side's administrative offices and eight beds and the main building housing the remaining beds, a recreation and TV area, a dining area, bathrooms and a medication room. (N.T. Vol 2 at 104; R.E. 9 at 38, 54, R.E. 11 at 43).

57. Canal Side rooms are either private rooms, semi-private or triple occupancy rooms. (R.E. 9 at 40).

58. The cost of a semi-private or triple room is $1,133.30 per month and a private room with a bathroom costs up to $2,000.00 per month. (R.E. 9 at 40, 42).

59. Kademani's assistant administrator is Sandra Dahlia, (hereinafter "Dahlia"). (N.T. Vol 2 at 161, 272; R.E. 11 at 12).

60. Ruth Sillers is Canal Side's supervisor of Canal Side's personal care aids. (N.T. Vol 2 at 191).

61. When Marie first called Canal Side, there were no openings, but after several calls, Canal Side had a female bed opening. (N.T. Vol 2 at 92, 129).

62. Marie informed Anaya that Canal side had an opening and Anaya followed-up with Kademani. (N.T. Vol 1 at 209, 304).

63. Generally, all Marie told Kademani about G.D. is that G.D. has mental health issues. (N.T. Vol 2 at 133).

64. Anaya called Kademani and told her that G.D. was living in a group home but was having problems with her daily living skills and that G.D. needed a higher level of care. (N.T. Vol 1 at 209; R.E. 8 at 82).

65. Anaya informed Kademani that G.D. is bi-polar and only needed minimum assistance in daily living needs. (R.E. 9 at 57).

66. Anaya said nothing about G.D.'s toileting needs or her bladder incontinence. (R.E. 9 at 57).

67. A tour of Canal Side was scheduled for December 11, 2007. (N.T. Vol 1 at 211, 315; N.T. Vol 2 at 93).

68. Anaya called Queen D. to tell her of the room availability at Canal Side and that a tour had been arranged. (N.T. Vol 1 at 22).

69. On December 11, 2207, Anaya picked up G.D. from Step by Step and drove her to Canal Side where Sillers took the two of them on a tour. (N.T. Vol 1 at 211, 315, 337).

70. Anaya and Sillers dispute the interaction between them on the December 11, 2007 tour: Sillers generally offered that during the tour she did not speak with Anaya or even knew who she was, and that she only spoke with G.D. who told her she does everything herself; Anaya testified that she informed Sillers that G.D. needed help with hygiene, personal living skills, wears a diaper and needs constant reminders to go to the bathroom. (N.T. Vol 1 at 212, 218, 234, 315, 338, 339, 354, 357; C.E. 7).

71. After the tour Anaya was given pre-admission screening forms to complete for G.D. as, at that time, Kademani felt that G.D. would fit in with other Canal Side residents and she had no concerns about accepting G.D. (N.T. Vol 2 at 152-153; R.E. 9 at 58-59).

72. Following the tour, Sillers went to Kademani and told her that she had doubts about G.D. and that she had formed the impression that G.D. was homeless and was simply desperate for a place to live. (R.E. 12 at 25-26).

73. Shortly thereafter, Kademani told Anaya that she was not sure G.D. would fit in at Canal Side, but Anaya assured Kademani that Canal Side was appropriate for G.D. and that G.D. was a good person and a nice listener. (N.T. Vol 1 at 209, 210, 265-266, 267, 271-272; C.E. 9; R.E. 8 at 82-85).

74. Anaya also promised Kademani that she would get additional information to Kademani regarding G.D. including a medical evaluation. (N.T. Vol 1 at 265).

75. On December 17, 2007, Anaya, Tracey, Marie and Queen D. met for a treatment team meeting at which time Anaya confirmed that G.D.'s psychiatric evaluation had been faxed from Lehigh Valley Mental Health to Kademani. (C.E. 8).

76. Subsequently Anaya completed Canal Side's Resident Application form and a Personal Home Preadmission Screening form for G.D. (N.T. Vol 1 at 214, 216; C.E. 14, 15).

77. The Resident Application asked for G.D.'s personal information; an emergency contact; to whom the billing was to be directed; insurance information; physician information; a listing of medications G.D. was taking; and a category entitled, "Additional information or concerns we should know about or should be aware of". (C.E. 14).

78. On December 27, 2007 Anaya completed the "additional information" section by writing, "[G.D.'s] kind, loving adorable person willing to work well with others. Needs attention and support from staff and peers." (C.E. 14; R.E. 8 at 19).

79. The preadmissions screening form was completed in pertinent parts as follows:

(a) Under Level of Supervision Anaya checked off: Requires minimal supervision and uses public transportation safely.

(b) Under Daily Living-Needs Help With- Anaya checked off: Managing health care, Personal Hygiene/ dressing and securing health care. Anaya did not check off: Toileting/bowel.

(c) Under Medical Care, Anaya checked off: Incontinence of bowel but did not check off incontinence of bladder.

(d) Anaya listed "Hygiene Carries Diper (sic)" under "other special care needs"

(e) Under Behaviors Exhibited, Anaya wrote: Sad/Tearful. (C.E. 16).

80. Anaya did not disclose to Kademani G.D.'s HIV status because Step by Step policies prohibited her from doing so. (N.T. Vol 1 at 233, 239-40, 303).

81. On January 2, 2008, Anaya picked up G.D. and her belongings and transported her to Canal Side. (N.T. Vol 1 at 147, 244; C.E. 11).

82. Anaya and G.D. arrived at Canal Side mid to late-morning. (N.T. Vol 2 at 178; C.E. 11).

83. Initially, G.D. and Anaya met with Kademani in her office to discuss G.D.'s Residential Application and Preadmission forms and to review the terms of a proposed Residential Admission Agreement. (N.T. Vol 1 at 221, 225, 302; N.T. Vol 2 at 102, 162-3, 164, 167, 171, 180).

84. Kademani testified that she reviewed G.D.'s Resident Application and Preadmission Screening forms and did not see any concerns so she proceeded to admit G.D. to Canal Side. (N.T. Vol 2 at 165-66).

85. There is a dispute regarding whether Anaya verbally informed Kademani about G.D.'s bladder incontinence at the January 2, 2008 meeting: Anaya testified that she told Kademani that G.D. had an incontinence problem, (N.T. Vol 1 at 155), Kademani denied this and offered that because Anaya had only checked off bowel incontinence the discussion was limited to this with Anaya saying G.D.'s bowel incontinence was just occasional. (N.T. Vol 2 at 103, 171-72).

86. Kademani also informed Anaya that she needed an MA-51 form as a soon as possible. (N.T. Vol 1 at 222, 284; N.T. Vol 2 at 186-87).

87. MA-51 forms contain the full medical evaluation of an individual. (N.T. Vol 1 at 222; N.T. Vol 2 at 186-87).

88. Anaya confirmed that G.D. already had an appointment the following week to have an MA-51 completed. (N.T. Vol 1 at 222, 284; N.T. Vol 2 at 187).

89. MA-51 medical evaluations may be completed up to 30 days after an individual has been admitted to Canal Side. (N.T. Vol 1 at 286-87; N.T. Vol 2 at 100, 187; C.E. 5; R.E. 11 at 152).

90. G.D. signed an incomplete Resident Admission Agreement. (N.T. Vol 1 at 285-86; N.T. Vol 2 180, 182; C.E. 5).

91. While G.D. and Anaya were meeting with Kademani, two Canal Side staff members, Shirley and Michelle were removing G.D.'s clothes from several bags in which they were brought to Canal Side and noticed that G.D's clothes were urine soaked. (N.T. Vol2 at 118, 206, 265; R.E. 9 at 62).

92. Before G.D.'s clothing was inventoried they were washed. (N.T. Vol 2 at 266; C.E. 5; R.E. 9 at 63).

93. Subsequently G.D's winter clothes were hung up and her summer clothes were stored in the attic. (N.T. Vol 1 at 157).

94. By 2:30 p.m. on January 2, 2008, G.D. had been placed on Canal Side's toileting plan which entailed queuing G.D. to go to the bathroom periodically during the day and waking her every two hours through the night reminding her to

go to the bathroom. (N.T. Vol 1 at 324, 327; N.T. Vol 2 at 207-08, 213, 216; R.E. 9).

95. On the afternoon of January 2, 2008, at approximately 4:00 pm, while checking G.D.'s medications, Felicia Moliter, Canal Side's medication clerk, became concerned that G.D. was taking Valtrex. (N.T. Vol 2 at 105, 278).

96. Moliter then called Dahlia to come to the medication room at which time G.D. was called to come to the medication room. (N.T. Vol 1 at 130; N.T. Vol 2 at 103, 189; R.E. 9 at 65).

97. When asked why she was taking Valtrex, G.D. responded that she had shingles and she had shingles because she has HIV. (N.T. Vol 2 at 106, 278-79; R.E. 9 at 65).

98. G.D. pulled her clothing back to expose her neck area to Dahlia who checked G.D,'s skin but did not see any blistering. (N.T. Vol 2 at 288; R.E. 7 at 55; R.E. 9 at 65; R.E. 11 at 78-79).

99. Dahlia then went to Kademani's office requesting that she come to the medication room to clarify the situation regarding G.D. saying that she has HIV. (N.T. Vol 2 at 107, 279-90; R.E. 9 at 67-68).

100. Kademani described there being a commotion in the medication room as she approached. (N.T. Vol 2 at 193; R.E. 9 at 142-43).

101. When Kademani arrived in the medication room, Kademani asked G.D. to tell her the reason she was taking each of her medications. (N.T. Vol 1 at 130-31, 1334-34; R.E. 7 at 15, 54).

102. G.D. responded by telling Kademani she takes medication for HIV. (N.T. Vol 1 at 134).

103. Kademani's reaction to G.D.'s statement was shock and surprise. (N.T. Vol 2 at 204).

104. Kademani then asked G.D. how she acquired HIV. (R.E. 7 at 16-17).

105. What transpired next is in dispute: G.D. testified that Kademani told her she could not stay at Canal Side because she has HIV and that she had 24 hours to leave the facility; (N.T. Vol 1 at 132; R.E. 7 at 13, 15, 63, 82, 94, 96). Kademani denies telling G.D. she had to leave and had 24 hours to do so. (N.T. Vol 2 at 101, 112; R.E. 9 at 83).

106. In tears G.D. called Queen D. but when Queen D. asked what was wrong, G.D. lied and told her she was fine. (N.T. Vol 2 at 137-39; R.E. 7 at 73).

107. Shortly after learning G.D. had HIV, Kademani placed a telephone call to Bloss, G.D.'s healthcare provider at the Eastern Community HIV Organization, and left a message saying it was urgent and an emergency and asking that Bloss call her back. (N.T. Vol 1 at 163, 164, 166; N.T. Vol 2 at 108).

108. Bloss returned Kademani's call the same day. (N.T. Vol 1 at 166, 190).

109. Bloss was put on Kademani's speaker phone as other members of Canal Side staff were in Kademani's office. (N.T. Vol 1 at 167; N.T. Vol 2 110, 242; C.E. 6; R.E. 11 at 92).

110. To Bloss, Kademani's voice sounded very upset and panicked. (N.T. Vol 1 at 168, 170, 178; C.E. 6).

111. Indeed, Kademani testified that she was panicked and shocked. (N.T. Vol 2 at 112).

112. Kademani told Bloss that G.D. is a new Canal Side resident and had disclosed that she has HIV and that Kademani and her staff were concerned about HIV transmission and the risk G.D. posed. (N.T. Vol 1 at 168, 169, 170, 192; N.T. Vol 2 at 109, 242; C.E. 6).

113. Kademani asked numerous questions regarding whether G.D. can use a drinking glass, eat off a plate, use utensils and whether G.D.'s clothes can be picked up with bare hands without fear of getting HIV. (N.T. Vol 1 at 171-72).

114. Kademani also asked if someone can get HIV if the person who has HIV is incontinent and urinates on a chair. (N.T. Vol 1 at 168,171).

115. Bloss reviewed the ways HIV is transmitted and generally told Kademani and the staff listening on the speaker phone that G.D. is really a non-risk as long as universal precautions are used. (N.T. Vol 1 at 168, 173, 181; N.T. Vol 2 at 110; R.E. 9 at 148).

116. After speaking with Kademani, Bloss entered a note specifically to G.D.'s file. (C.E. 6).

117. Subsequent to hearing G.D. say that she has HIV, Kademani also called Anaya. (N.T. Vol 2 at 54,121-122; C.E. 12; R.E. 8 at 87).

118. Kademani left several messages urgently asking Anaya to call her back. (N.T. Vol 2 at 121-122, 220).

119. When Anaya and Kademani did speak, Kademani was extremely upset that Anaya did not tell her about G.D.'s HIV. (N.T. Vol 1 at 226, 293; N.T. Vol 2 at 15, 122, 219, 224; C.E. 12; R.E. 8 at 87).

120. Anaya informed Kademani that she was not permitted to disclose the fact that G.D. has HIV. (N.T. Vol 1 at 226, 303; N.T. Vol 2 at 48).

121. While Kademani denied that she told Anaya that Anaya had to remove G.D. from Canal Side, Anaya testified that Kademani told her that G.D. needed to be removed "right away". (N.T. Vol 1 at 226, 228, 292; N.T. Vol 2 at 15-16; C.E. 12; R.E. 8 at 96).

122. Anaya's version of her communications with Kademani suggests that Kademani told her that her staff was walking out because G.D.'s things were soiled and the staff had touched them. (N.T. Vol 1 at 226, 228, 292-93, 310; C.E. 12; R.E. 8 at 88).

123. Anaya also offered that Kademani wanted G.D. removed right away because Kademani would be leaving the country soon. (R.E. 8 at 96).

124. Kademani agreed that she informed Anaya that she needed to find another placement for G.D. (N.T. Vol 2 at 248).

125. During their conversation Kademani kept repeating the question, why didn't Anaya tell her about G.D.'s HIV. (N.T. Vol 1 at 228).

126. The conversation between Kademani and Anaya deteriorated into an argument. (N.T. 228, 280, 309).

127. After the first conversation Kademani called Anaya back, once again saying Anaya should have informed her of G.D.'s HIV and repeated that her staff was walking out. (N.T. Vol 1 at 310).

128. Anaya hung up on Kademani and went to speak with Zettlemoyer. (N.T. Vol 1 at 228; N.T. Vol 2 at 13, 15).

129. At some point, Anaya called Kademani back and asked her for an additional day before removing G.D., to which Kademani agreed. (N.T. Vol 1 at 229, 279, 310; N.T. Vol 2 at 19,127).

130. Zettlemoyer advised Anaya not to have further conversation with Kademani and that she would take any further calls from Kademani. (N.T. Vol 1 at 281; N.T. Vol 2 at 20, 28).

131. Zettlemoyer also told Anaya to see if Queen D. can go to Canal Side to pick up G.D. (N.T. Vol 1 at 228)

132. Subsequently, Kademani called and spoke with Zettlemoyer complaining about Anaya and questioning the validity of Anaya not informing her that G.D. has HIV. (N.T. Vol 2 at 14, 16, 29).

133. Kademani informed Zettlemoyer that she was unwilling to allow G.D. to stay at Canal Side until a transition plan could be developed because her staff was threatening to quit because they were afraid to touch G.D.'s soiled clothes due to her incontinency and their fear of getting AIDS. (N.T. Vol 2 at 19, 32, 37).

134. Zettlemoyer explained to Kademani Step by Step's confidentiality requirements and asked if Kademani's staff used universal precautions. (N.T. Vol 2 at 16).

135. After Kademani confirmed the use of universal precaution, Zettlemoyer informed Kademani that her staff should have no need to be fearful then. (N.T. Vol 2 at 18, 30).

136. Despite her attempts to quell Kademani's concerns, Kademani declined to provide G.D. with any extended care options. (N.T. Vol 2 at 26).

137. On the morning of January 3, 2008, Anaya called Queen D. advising her that there was a possibility that G.D. was to be dismissed from Canal Side and that Queen D. needed to pick up G.D. (N.T. Vol 1 at 229; C.E. 13; R.E. 8 at 98; R.E. 10 at 64-65).

138. Anaya informed Queen D. that her supervisor did not want Anaya to have any further involvement with Kademani. (N.T. Vol 1 at 229).

139. Queen D. became upset after being told the G.D. had to be removed from Canal Side because she has HIV. (N.T. Vol 1 at 74, 230; R.E. 8 at 63).

140. Queen D. then attempted to call Kademani but was simply put on hold and told to call back. (N.T. Vol 1 at 75; R.E. 7 at 83).

141. After numerous telephone calls, eventually, Queen D. was able to speak with Kademani. (N.T. Vol 1 at 75; R.E. 10 at 75).

142. As they spoke, the conversation became heated as Kademani informed Queen D. that G.D. could not stay at Canal Side because she would infect her staff. (N.T. Vol 1 at 77, 115; R.E. 10 at 78).

143. Kademani told Queen D. that her staff was threatening to walk out and "this is a landlord/tenant situation. I'm the landlord. I can have anybody here I want." (N.T. Vol 1 at 76, 77; R.E. 10 at 78).

144. Queen D. informed Kademani that she works in a similar facility to Canal Side and that Canal Side staff just needs to practice universal precautions. (N.T. Vol 1 at 77).

145. Kademani repeated that the issue was that her staff was threatening to walk out and told Queen D that she does not have to deal with this. (N.T. Vol 1 at 77).

146. At this point, Queen D. felt G.D. would not be safe if she remained at Canal Side. (N.T. Vol 1 at 77-78).

147. Queen D. then called Anaya to say she was going to get G.D. because she felt she was not safe and she did not want G.D. there another night. (N.T. Vol 1 at 79-80).

148. Meanwhile, on the morning of January 3, 2008, Sillers began working on the first shift at 6:00 A.M. and discovered that G.D. has soiled her bed. (N.T. Vol 1 at 317).

149. Sillers simply cleaned up, disinfected G.D.'s bed and put on clean linens. (N.T. Vol 1 at 37).

150. As changing a bed's linens is part of the normal routine, Sillers neither told anyone about G.D. soiling her bed nor wrote it down anywhere. (N.T Vol 1 at 318, 334-35).

151. That same morning, G.D. wanted to speak to Kademani but was told Kademani was too busy. (N.T. Vol 1 at 144; R.E. 7 at 83).

152. Queen D. and her sister April D. met Anaya at Step by Step and followed Anaya to Canal Side. (N.T. Vol 1 at 80).

153. Before Queen D. and April D. arrived, G.D. told Sillers that her sister is coming to take her home. (N.T. Vol 1 at 319, 341).

154. Sillers informed Dahlia regarding what G.D. said. (N.T. Vol 1 at 342).

155. When Queen D. and April D. arrived at Canal Side, Anaya left and Queen D. and April D. went inside where they first encountered Sillers. (N.T. Vol 1 at 80, 320).

156. Queen D. and April D. went to Dahlia's office and informed her they were there to pick up G.D. (N.T. Vol 2 at 290; R.E. 11 at 102).

157. Dahlia then took Queen D. and April D. to where G.D. was located. (N.T. Vol 2 at 290; R.E. 11 at 102).

158. When G.D. saw Queen D. and April D. she was happy but as also shocked and surprised. (N.T. 81, 111, 141).

159. G.D.'s clothes were gathered up and Canal Side staff retrieved G.D.'s stored items from the attic. (N.T. Vol 1 at 81, 111, 112, 158; R.E. 10 at 79).

160. No one asked Queen D. why she was taking G.D. (N.T. 82).

161. Dahlia prepared a discharge form listing the reason for G.D.'s discharge as "incontinence". (N.T. Vol 2 at 291-93; R.E. 11 at 106-07).

162. Dahlia waited in the medications room for G.D. and, without discussion simply had her sign the discharge form when G.D. came to pick up her medications. (N.T. Vol 2 at 297; R.E. 11 at 108).

163. On January 3, 2008, when Sillers' shift ended at 2:30 P.M., as ordered by Kademani, Sillers wrote in her shift report. "All staff needed to wear gloves at all

time (sic) from setting table to pulling trash" (N.T. Vol 1 at 321,347, 350-1, 364; R.E. 9 at 176).

164. To Kademani's knowledge, G.D. was the first Canal Side resident that had HIV. (N.T. Vol 2 at 107).

165. Some Canal Side residents have Hepatitis C. (N.T. Vol 2 at 87).

166. In the past, at least one Canal Side resident developed shingles and that resident was quarantined until his shingles were no longer contagious. (N.T. Vol 1 at 331-37; N.T. Vol 2 at 89.)

167. In January 2008, Canal Side did not have a written policy regarding incontinence. (N.T. Vol 2 at 135; R.E. 9 at 33).

168. After removing G.D. from Canal Side, Queen D. took G.D. to her home where family and neighbors tried to assist Queen D. in caring for G.D. (N.T. Vol 1 at 84, 237).

169. Queen D. called another ICM to see if G.D. could be placed somewhere else. (N.T. Vol 1 at 78).

170. After G.D. arrived at Queen D.'s home, she was initially happy to see her children but, after a short while, G.D. went off by herself, paced back and forth, became quiet and was even more depressed, and sad and tearful than she had been before. (N.T. Vol 2 at 65, 78).

171. G.D. began not caring about matching her clothes or what she looked like. (N.T. Vol 2 at 66).

172. Also G.D.'s incontinence problem grew worse. (N.T. Vol 2 at 66).

173. G.D. grew more distant to her children and cried often. (N.T. Vol 2 at 66-67).

174. G.D. was embarrassed that she was not permitted to stay at Canal Side and she did not want either Queen D. or her children to know why she was made to leave Canal Side. (N.T. Vol 2 at 68).

175. Eventually, Queen D. came to the conclusion that G.D. could not stay with her, so Queen D. called Anaya telling her that G.D. needed placement because G.D. was taking a toll on her children and her marriage. (N.T. Vol 2 at 70).

176. Anaya came to Queen D.'s home and took G.D. to a shelter. (N.T. Vol 2 at 70).

177. At this point, there was still no transition plan for G.D. (N.T. Vol 2 at 78).

178. After a day or two, the shelter referred G.D. to St. Luke's Hospital for a psychiatric evaluation. (N.T. Vol 1 at 84).

179. Because G.D. had nowhere to go, St. Luke's did not discharge G.D. (N.T. Vol 1 at 85).

180. Instead, from the beginning of March to the end of May 2008, G.D. was placed on "lock down" on St Luke's psychiatric floor. (N.T. Vol 1 at 85; N.T. Vol 2 at 73, 79).

181. At the end of May 2008, St. Luke's referred G.D. to a facility called Manor Care. (N.T. Vol 1 at 86; R.E. 8 at 113).

182. G.D. presently resides at Manor Care. (N.T. Vol 1 at 122; R.E. 10 at 13, 100).

CONCLUSIONS OF LAW

1. The Pennsylvania Human Relations Commission has jurisdiction over the parties and subject matter of this case.

2. The parties and the Commission have fully complied with the procedural prerequisites to a public hearing.

3. G.D. in an individual within the meaning of the Pennsylvania Human Relations Act ("PHRA").

4. G.D. is disabled within in the meaning of the PHRA.

5. Canal Side is a housing accommodation within the meaning of the PHRA.

6. Canal Side and Kademani are persons within the meaning of the PHRA.

7. A Complainant can prove unlawful discrimination through direct evidence or circumstantial evidence.

8. G.D. has established her case by direct evidence.

9. G.D.'s direct evidence of discrimination is supported by a preponderance of the evidence.

10. Respondents Canal Side and Kademani's discriminatory actions constitute violations of section 5(h) of the PHRA.

11. Kademani aided and abetted the discriminatory actions, in the violation of section 5(h) of the PHRA.

12. When discrimination has been found, the Commission has broad discretion in fashioning a remedy.

13. The Commission may award compensatory damages generally relating to housing discrimination, and actual damages, including damages for embarrassment and humiliation. The Commission may also award civil penalties and injunctive relief.

OPINION

This case arises on a complaint filled on behalf of G.D. by her power of Attorney, her sister, Queen D., against "Lakshmi Kademani/ Canal Side Care Manor" at PHRC Case # 200705453. In this complaint, verified on April 14, 2008, G.D. generally alleged that she was evicted by the "respondent" because of her disability, HIV. G.D.'s complaint alleges that the "respondent" violated section 5(h)(1) of the PHRA.

On November 27, 2009, a first amended complaint was subsequently verified by Queen D. on behalf of G.D. In the first amended complaint, G.D. clarified several things. First, G.D. renamed Canal Side Care Manor as Canal Side Care Manor, LLC, d/b/a Cabal Side Care Manor, (hereinafter "Canal Side"). Secondly, G.D. clarified her intention to pursue Kademani in her individual capacity. In the first amended complaint, G.D. alleges two counts: (1) an alleged eviction because of G.D.'s disability, HIV/AIDS in violation of section 5(h)(1) of the PHRA; and (2) that Kademani aided and abetted Canal Side's eviction of her, in violation of section 5(e) of the PHRA. In count 1, G.D. also clarified that her 5(h)(1) case is brought against both Canal Side and Kademani as an individual.

The PHRC investigated G.D.'s original allegation and, at the conclusion of the investigation, informed Canal Side that probable cause existed to credit G.D.'s allegation. Thereafter, the PHRC attempted to eliminate the alleged unlawful practice through conference, conciliation and persuasion, but such efforts proved unsuccessful. Subsequently, by correspondence dated August 4, 2009, the PHRC notified the parties that it had approved a Public Hearing.

The Public Hearing was held on April 8 and 9, 2010, in Easton, Pennsylvania, before a three member panel consisting of Panel Chairperson Sylvia A. Waters, Panel

Member Dr. Raquel O. Yiengst, and Panel Member Ismeal Arcelay. The Commission's interest in G.D.'s complaint was overseen by the PHRC's Housing and Commercial Property Division's Assistant Chief Counsel, Stephanie M. Chapman, Esquire. Ronda B. Goldfein, Esquire and Sarah R. Schalman Bergen, Esquire presented the case on behalf of G.D.., and Stewart O'Neal, Esquire appeared on behalf of Canal Side and Kademani.

At the conclusion of the Public Hearing, the parties were all afforded an opportunity to submit post-hearing briefs. G.D.'s post-hearing brief was received on June 21, 2010. Canal Side and Kademani's post-hearing brief was received on June 17, 2010. Additionally, on July 12, 2010, the Respondents filed a supplemental brief.

At issue in this case are the following provisions of the PHRA that make it an unlawful discriminatory practice for any person to:

> Refuse to...lease...or otherwise deny or withhold housing accommodation...from any person because of the...handicap or disability of any person...occupant or user of such housing accommodations...(PHRA Section 5(h)(1)).
> ...aid, abet...the doing of any act declared by this section to be an unlawful discriminatory practice...(PHRA Section 5(e)).

Here, G.D. generally alleges that Canal Side and Kademani intentionally discriminated against her by effectively denying her a housing accommodation because she has HIV.

In the case of Allison v. PHRC, 716 A.2d 698 (Pa. Cmwlth. Ct. 1998), the Pa. Commonwealth Court adopted for use in housing cases the proof standards normally found in employment cases. Indeed, as a general rule, there are two ways to approach an intentional discrimination claim: (1) the oft used three part analytical framework of

McDonnell Douglas v. Green, 411 U.S. 792 (1973), where a Complainant must establish a *prima facie* case by a preponderance of evidence. If a *prima facie* case is presented, a Respondent must simply articulate a legitimate non-discriminatory reason for its action. Finally, if a Respondent does articulate a legitimate non-discriminatory reason, the Complainant must prove by a preponderance of evidence that the articulated reason is – pretextual and the real reason is discriminatory; or (2) proof by direct evidence, see Blalick v. Metal Traders, Inc., 775 F.2d 703 (6th Cir. 1985). If direct evidence of discriminatory intent is shown, the McDonnell Douglas *prima facie* analysis becomes inapplicable. *See* Transworld Airlines, Inc. v. Thurston, 496 U.S. 111 at 121 (1985); Cline v. Roadway Express, 29 FEP Case 1365 (4th Cir. 1982), and Aloqaili, et al v. National Housing Corp., f/k/a Shave Reality Co., et al, 743 F. Supp. 1264 (N.D. Oh 1990); *See also*, Goodman v. Lukens Steel Co., 777 F.2d 113,130 (3rd Cir. 1985).

Citing Allison, *supra*, the Respondents' post-hearing brief seems to suggest that G.D. "must" provide direct evidence to prevail. Of course, proof by direct evidence is only one way to make out a case of intentional discrimination. In Allison the contention was that the Complainant failed to establish a *prima facie* case. The court acknowledged that the analysis used had been the direct evidence framework. The court found that "[w]here direct evidence of discrimination is presented, such evidence, if supported by a preponderance of the evidence, is sufficient to support a finding of discrimination. Allison at 691.

G.D.'s post-hearing brief acknowledges the separate analytical models and generally argued that G.D. has established her case by direct evidence. However, before we conclude whether G.D. has made a direct evidence case, we note that a significant

portion of critical probative evidence is in conflict. Accordingly, before evaluating whether there is direct evidence of a discriminatory motive, it is necessary to examine and evaluate the credibility of many of the witnesses in this case.

Judgment of credibility is a responsibility entrusted to the tier of fact. Carr v. Com., State Board of Pharmacy, 48 Pa. Cmwlth. 330, 409 A.2d 941 (1980); Boughter v. Com., Dep. of Public Welfare, 55 Pa. Cmwlth. 521, 423 A.2d 806 (1980); PHRC v. Hempfield Township, 23 Pa. Cmwlth. 351,352 A.2d 218 (1976). In this case much of the relevant testimony presented was conflicting. In assessing credibility, consideration was given to each witness' motive and state of mind, strength of memory and demeanor while on the witness stand. Consideration was also given to whether a witness' testimony was contradicted, and the bias, prejudice and interest, if any, of each witness. Recognition was also given to the premise that where resolution of a matter rests with a weighing and balancing of conflicting evidence, absolute certainty is rarely achieved.

As generally noted in the Findings of Fact, significant conflict exists in several key areas. Clearly, the record resonates with an emphatic clash of testimonies with respect to the central question of whether, on the late afternoon of January 2, 2008, upon learning G.D. has HIV, Kademani concluded that G.D. would not be permitted to stay at Canal Side and, whether she did or did not tell G.D. she had to leave and that she had 24 hours to do so. Furthermore, there is stark contrast in the testimony regarding whether Kademani, in fact did or did not tell Anaya, Zettlemoyer and Queen D. that because of G.D.'s HIV, Kademani wanted G.D. removed from Canal Side right away.

Since it is principally Kademani's actions that are challenged we begin with a review of several factors that weigh on the issue of Kademani's credibility. First there are

several revealing instances where Kademani directly contradicted herself. In relating the events surrounding being called to the medication room on the afternoon of January 2, 2008, when deposed, Kademani spoke about perceiving "a lot of excitement" and "a little commotion", (R.E. 9 at 142-43), among residents outside the medication room. Kademani offered that residents were questioning whether G.D. had singles. In the Respondent's answer, Kademani indicated that it came to her attention at around 4 P.M. on January 2nd, that G.D. was disclosing to the residents that she had shingles and HIV. When she testified at the Public Hearing, Kademani began by saying the "commotion" was not among residents but in the medication room. (N.T. Vol 2 at 193). Then Kademani began to back away from the term "commotion" all together. She termed the situation as "not a big commotion". (N.T. Vol 2 at 193). Kademani then suggested she could hear the residents outside of the medication room who were not excited but "just talking". At first, Kademani said residents were questioning whether G.D. had shingles, she then later testified that she had "no idea" what the residents were talking about. (N.T. Vol 2 at 198). Finally Kademani simply denied that there was either a commotion or an excitement. (N.T. Vol 2 at 199). Clearly, Kademani attempted to minimize the degree of disturbance occurring either outside or in the medication room on January 2nd, and that a part of the "commotion" was about G.D.'s HIV.

The next direct contradiction involves whether Kademani saw G.D.'s clothes when G.D. arrived at Canal Side. Initially, at her deposition, Kademani began by saying that two staff members came to tell her that G.D.'s clothes were urine soaked. (R.E. 9 at 62). Later, in the same deposition, Kademani said she saw G.D.'s clothes. (R.E. 9 at 83). A short while later, Kademani emphatically stated that she had not seen G.D.'s clothes,

but had only been told they were wet. (R.E. 9 at 113). At the Public Hearing, Kademani again stated that she had not looked at G.D.'s clothes. (N.T. Vol 2 at 206-08). Why Kademani would change her testimony on this matter is unclear. What is clear is that she did.

Kademani also contradicted herself regarding whether she told Anaya that she was leaving the country. In her deposition, Kademani was asked a direct question about whether she told either Anaya or Zettlemoyer that she was planning on leaving the country. At first, Kademani attempted to avoid answering the question. (R.E. 9 at 93-94). Then, when the question was repeated and she was asked to answer "yes or no", Kademani answered "no". (R.E. 9 at 94). A short while later Kademani was again asked whether she told Anaya she was leaving the country, this time, Kademani said she did reveal this to Anaya. (R.E. 9 at 96). On this point, the more pressing question was whether Kademani was telling Anaya she was leaving the country because she wanted the issues surrounding G.D. resolved before she left. It appears that Kademani tried to avoid revealing that she told Anaya about her travel plans because of the direct connection with the likely reason why she would be discussing her travel plans.

Yet another direct contradiction revolves around Kademani's testimony regarding why she called Bloss. Initially, Kademani testified that she was not seeking information on how HIV is transmitted. (N.T. Vol 2 at 243). Almost immediately, when asked if she was seeking information on how HIV is generally transmitted, Kademani said yes. (N.T. Vol 2 at 244). Indeed, in the notes she created after she spoke with Kademani, Bloss wrote that she "explained risk factors and routes of transmission…again explained

transmission risk." (C.E. 6). Additionally, Bloss testified that Kademani's questions were mainly about HIV transmission and the risk G.D. posed. (N.T. Vol 1 at 170, 191).

In addition to the direct contradictions, credible testimony of others and other record evidence contradicts Kademani's version of events. For example, Kademani's deposition testimony first offered that she could not recall what she talked about with Anaya after learning G.D. has HIV. (R.E. 9 at 149). Kademani offered that she only had a general question in regarding why Anaya had not disclosed G.D.'s bladder incontinence. Kademani further offered that she wanted to know why there had been no medical evaluation. The evidence clearly shows that Kademani was satisfied knowing that G.D. was scheduled for a physical on January 8th and she would not have G.D.'s medical evaluation until after that.

Along this same line, Kademani offered that on January 3, 2008, when speaking with Queen D., she told Queen D. that she need more medical information on G.D. (R.E. 9 at 95). Kademani submits that Queen D. responded by threatening to sue her for asking for more information. Indeed, Queen D. would not have been disturbed that Kademani would want more information on G.D. Queen D. was simply happy G.D. had finally been placed in a personal care home.

Returning to the circumstances surrounding Kademani's telephone conversation with Bloss, the record is clear that Kademani put Bloss on the speaker phone. (N.T. Vol 2 at 242). What is unclear is who was in the room with Kademani at the time. Initially, Kademani testified that she had "one" of her staff in her office. (N.T. Vol 2 at 110). Later, Kademani revealed that her "staff" was there to listen "so our minds were all at rest." (N.T. Vol 2 at 242). Bloss also credibly confirmed that she was of the impression

that there were others in Kademani's office. (N.T. Vol 1 at 170; C.E. 6). Additionally, Kademani testified that Dahlia joined her in her office during the conversation with Bloss. (N.T. Vol 2 at 245). Dahlia testified that she was not in Kademani's office but only walking by and briefly stood in Kademani's doorway and merely overheard part of the conversation. (N.T. Vol 2 at 284-85; R.E. 11 at 94-95).

Kademani's credibility is substantially eroded on another major point. A primary question in this case involves whether Kademani took measures to ensure that G.D. was removed from Canal Side. Generally, Kademani testified that she did not tell Anaya that she had to remove G.D. (N.T. Vol 2 at 247). However, Kademani also agreed that she spoke with both Anaya and Zettlemoyer about an extended care plan for G.D. (N.T. Vol 2 at 248). Kademani also testified that she told Anaya and Zettlemoyer that G.D. had time to find another placement. (N.T. Vol 2 at 248). Kademani then confirmed that she told Anaya that she had to find another place for G.D. (N.T. Vol 2 at 248). Almost immediately, Kademani returned to her denial saying that she did not tell Anaya that G.D. had to leave. (N.T. Vol 2 at 251). Kademani continued with her denial by denying that she had ever discussed an extended plan. (N.T. Vol 2 at 252). A short while later, Kademani's testimony confirmed that Anaya had suggested an extended plan. (N.T. Vol 2 at 263). Anaya testified that she had asked Kademani for at least a day to find an alternative arrangement for G.D. (N.T. Vol 1 at 229, 279, 310). At another point, Kademani not only admitted that Anaya had asked for an extended stay, but Kademani admitted she had agreed to Anaya's request. (N.T. Vol 2 at 127). Fundamentally, an extended plan would not have been necessary unless Kademani had said that G.D. had to

leave. Considered as a whole, the record reveals that Kademani's lack of credibility, on so many levels is blatantly obvious.

Anaya's credibility was also a bit weakened by her actions and testimony regarding G.D.'s bladder incontinence. Although Anaya participated in meetings between Step by Step and Queen D. specifically about the problem posed by G.D.'s bladder incontinence, Anaya at one point in her deposition stated that she could not recall if she was ever aware that G.D. had a bladder issue. (R.E. 8 at 51, 76-77, 85). Anaya also testified that, at one point, she never felt G.D. had an incontinence problem. (R.E. 9 at 106). Almost immediately, Anaya offered that G.D.'s problem was off and on.

As far as Anaya's actions in only partially filling out G.D.'s preadmission screening form, it is clear, Anaya intentionally neglected to note G.D.'s bladder incontinence. (C.E. 15). On this point, G.D., Queen D. and Zettlemoyer all expressed their belief that Anaya should have been more forthcoming to Canal Side about G.D.'s bladder incontinence. G.D. testified that she believed Anaya was going to tell Canal Side about her incontinence. (R.E. 7 at 108). Queen D. testified that she believed Anaya knew of G.D.'s bladder incontinence and trusted that she would have passed this information to G.D.'s heath care provider. (N.T. Vol 1 at 91, 108; R.E. 10 at 58-59). Queen D. expressed surprise to learn that Anaya had not. (N.T. Vol 1 at 108). Finally, Zettlemoyer also indicated that she was surprised that Anaya failed to check "incontinence of bladder" on G.D.'s preadmission screening form. (N.T. Vol 2 at 43). Zettlemoyer went so far as to admit that Anaya had not properly completed G.D.'s forms. (N.T. Vol 2 at 34).

Next, in Queen D.'s testimony, a small contradiction can be found. In her deposition, Queen D. initially offered that the night she brought G.D. home from Canal

Side, G.D. told her that Kademani told her she had to leave because of HIV. (R.E. 10 at 71). Later Queen D. suggested that this conversation did not happen for approximately a week. (R.E. 10 at 89).

There are also several places in the record where G.D.'s testimony was slightly in conflict. On each of these instances, we do not find that G.D.'s testimony lacked credibility. We simply recognized that G.D. was extremely nervous and slightly confused and intimidated by the Public Hearing process.

Finally, in her PHRC complaint, G.D. alleged that "staff members made rude comments and laughed at [G.D.]" (C.E. 16). When G.D. testified, she revealed that the staff at Canal Side had been nice to her. G.D. confirmed that no rude comments were directed to her and no one had laughed at her. (N.T. Vol 1 at 159; R.E. 7 at 118). It appears that G.D. told her sister, April D. that people had been laughing with G.D., but April D. surmised that people were laughing at G.D. and making fun of her. (N.T. Vol 1 at 106, 148).

Having reviewed numerous elements that weigh on the credibility of the witnesses, we draw conclusions bearing in mind the preponderance of evidence standard. With this general principle in mind, we begin with finding that G.D.'s bladder incontinence was not a meaningful problem for Canal Side.

Clearly, although Anaya kept information regarding the extent of G.D.'s bladder incontinence from Kademani, Anaya specifically noted that G.D. has "bowel" incontinence. Kademani asked us to believe that in January 2008, Canal Side had a verbal policy that Canal Side did not accept clients with incontinence problems. (N.T. Vol 2 at 135,137, 262; R.E. 9 at 33). However, apparently realizing that the evidence establishes

that she was of the understanding that G.D. had bowel incontinence, Kademani adjusted her testimony to say that the policy was to admit individuals who have bowl incontinence. (N.T. Vol 2 at 139).

Clearly, Canal Side staff knows how to care for residents who are incontinent. (N.T. 9 at 89, 340; R.E. 9 at 35). Further, on the evening of January 2, 2008, besides G.D., nine other residents were on a schedule where they were awakened up every 2 hours through the night to go to the bathroom. (C.E. 20; N.T. Vol 1 at 324-25, 327, 112) Canal Side also had a queuing program where incontinent residents were reminded every few hours during the day to go to the bathroom. (N.T. Vol 2 at 85; R.E. 9 at 34). Also, we find instructive Siller's testimony about the morning of January 3, 2008, when she found that G.D. had soiled her bed. Sillers simply cleaned up, disinfected and changed G.D.'s linens. (N.T. Vol 1 at 317). Sillers offered that changing a bed is just a part of her normal routine so she neither told anyone about G.D. nor wrote the incident down. (N.T. Vol 1 at 318, 335). If there had been a policy about incontinence beyond the queuing program and night schedule, Sillers would certainly have told someone about G.D. having soiled her bed.

Indeed, Kademani admitted that newly admitted residents are assessed at admission and, if incontinent, immediately put on a toileting program. (R.E. 9 at 34). In G.D.'s case this is precisely what happened. When she arrived at Canal Side, G.D.'s clothes were washed because they were wet with urine. (N.T. Vol 2 at 264; R.E. 9 at 62). By early in the afternoon of January 2, 2008, G.D. had already been placed on Canal Side's queuing program and put on the schedule to be awakened periodically during the night. (N.T. Vol 2 at 221, 213). While Kademani says Canal Side did not accept new

residents with incontinence problems, she was fine knowing G.D. had an issue. (N.T. Vol 2 at 124, 138, 172). To attempt to reduce the impact of accepting G.D. and not calling Anaya about G.D.'s incontinence as soon as she learned of it, Kademani testified that she had not called Anaya because she did not know the severity yet. (N.T. Vol 2 at 207,218).

When Kademani tells us that her urgent call a few hours later to Anaya was about G.D.'s incontinence, the lack of credibility in her assertion is easily seen. We also do not believe Kademani when she suggests that the problem was that G.D. was being non-compliant with Canal Side's incontinence program. (N.T. Vol 2 at 123). First, in this regard, Kademani references G.D.'s reported refusals to go to the bathroom when awakened during the night of January 2nd and the morning hours of January 3rd. (N.T. Vol 2 at 114, 116). Of course, Kademani's calls to Anaya happened before G.D.'s purported refusals. Furthermore, Kademani made no effort to offer that staff had been instructed to discuss Canal Side's policies with G.D. about adhering to the queuing program or the night scheduling plan. This is especially interesting because it appears that the staff member who tried to awaken G.D. is a male. (R.E. 9 at 136). One would expect that if a new resident was perceived as not following a rule, someone would take that person aside and speak with them about Canal Side's expectations. Nothing like that seems to have occurred with G.D. Furthermore, Dahlia testified that the first time she learned that G.D. was incontinent was on the morning of January 3rd. If G.D.'s incontinence was even a small issue, certainly Dahlia would have known about it on January 2nd. This brings us to what we find was the real reason Kademani called Anaya.

From the moment Kademani heard G.D. say she had HIV, Kademani's sole intent was to remove G.D. from Canal Side as soon as possible. Indeed, we find G.D.'s

testimony entirely credible that Kademani immediately told her she would have to leave Canal Side because she has HIV and that she had 24 hours to do so. (N.T. Vol 1 at 133, 161; R.E. 7 at 13-15, 63, 94, 96). We also credit the testimony of Bloss as fully credible when she described Kademani as being very upset and panicked and concerned primarily about HIV transmission and the risks G.D.'s incontinence posed. Kademani had termed her issue as urgent and an emergency when pleading for Bloss to return her call. (N.T. Vol 1 at 166). Bloss also helps clarify that Kademani's staff were listening to Bloss' explanation that G.D., in effect, posed no risk so long as universal precautions were taken. (N.T. 168, 170, 173, 181; C.E. 6).

We find that the only reason Kademani called Bloss was because of her and Canal Side's staff's panicky concerns about the risk G.D. posed with respect to G.D.'s HIV. We further find that Bloss' information did not allay anyone's fears because, soon after speaking with Bloss, Kademani called Anaya. Along with Kademani expressing that she was upset that Anaya did not tell her G.D. has HIV, Kademani informed Anaya that she had staff walking out. (N.T. Vol 1 at 226, 292-93, 310). By a preponderance of evidence, we find that Kademani told Anaya that G.D. needed to be removed right away. (N.T. Vol 1 at 228, 279, 281, 292).

Dahlia testified that approximately three years earlier, a situation came up at Canal Side that caused a resident's immediate removal. (R.E. 1 at 47-48). Dahlia related a situation where a male resident had threatened to kill Dahlia causing Dahlia to call that resident's case manager saying the case manager needed to find the threatening resident another place to live. In that instance, within a week, another place was found. (R.E. 1 at 47-48).

Here, we find there is direct evidence that fears of contracting HIV principally motivated Kademani's panicky demand that Anaya remove G.D. right away. All Kademani was prepared to do was give Anaya one extra day to relocate G.D. (N.T. Vol 1 at 228; N.T. Vol 2 at 127). We find that Kademani did tell Anaya that she wanted the matter cleared up because she had plans to leave the country soon. (R.E. 8 at 96). We find that Kademani was adamant to have G.D. removed both because of the fears of contracting HIV and Kademani not wanting to leave the country with her staff so upset that an individual with HIV was there.

Still upset, Kademani appealed to Anaya's supervisor by complaining to Zettlemoyer that Anaya had not informed her that G.D. has HIV. (N.T. Vol 2 at 2 16, 29). We find that Kademani told Zettlemoyer that her staff was afraid to touch G.D.'s soiled clothes and feared getting AIDS. (N.T. Vol 2 at 32). Further, we find that Kademani informed Zettlemoyer that her staff threatened to quit (N.T. Vol 2 at 37) and that she was unwilling to allow G.D. to stay at Canal side until a transition plan could be developed. (N.T. Vol 2 at 19, 26).

We also find that on January 3rd, Kademani engaged in a heated conversation with Queen D. (N.T. Vol 1 at 115; R.E. 10 at 76). During this conversation, Kademani told Queen D. that her staff was very upset and was going to walk out fearing that they might become infected. (N.T. Vol 1 at 76, 104-5; R.E. 10 at 76-78).

Along with the direct evidence, there are also circumstantial matters that Kademani took action to cause G.D. to expeditiously leave Canal Side. For instance, during the January 2nd afternoon meeting in the medication room, it was clear that G.D. told Dahlia and the medication clerk that she had shingles and HIV. Dahlia testified that

she had experience caring for individuals with shingles both at Canal side as well as at a previous place of employment. (N.T. Vol 2 at 288; R.E. 11 at 71-77). Although Dahlia testified that she was concerned about whether G.D. had shingles, (R.E. 11 at 82), she did not isolate her. (R.E. 11 at 86). After simply looking at G.D.'s neck, Dahlia though there was still a possibility that G.D. might be contagious, (R.E. 11 at 86) but, rather than isolate G.D., she sent G.D. to eat and mingle among the other residents.

Perhaps, the reason Dahlia did not take precautionary measures with G.D.'s potentially contagious condition was because she had just heard Kademani say that G.D. had to leave within 24 hours. Otherwise, Dahlia surely would not have risked other residents being exposed to shingles.

Another circumstantial point deals with Siller's note in her mandatory Daily Shift Change Report. Sillers wrote, "All staff need to wear gloves at all time [sic] from setting table to pulling trash." (C.E. 21). While Sillers attempted to portray writing this as a routine note to her staff, (N.T. Vol 1 at 352) the real reason she wrote this note became evident in Kademani's deposition. Kademani revealed that she had ordered Sillers to write this note (R.E. 9 at 176).

In the Respondent's post-hearing brief, they argue that G.D. was not removed from Canal Side. The respondents argue that, for reasons unknown, G.D. voluntarily left Canal Side. This argument rings hollow. Clearly, Kademani wanted G.D. out of Canal Side. When Queen D. and April D. went to retrieve G.D. from Canal Side, there was no question in their mind that G.D. was not welcome there. Queen D. testified that after speaking with Anaya and then Kademani, she feared the G.D. would not be properly cared for at Canal Side because G.D. has HIV. We find this concern was reasonable and

that, had Queen D. not removed G.D. from Canal Side, Kademani would have insisted that Anaya remove her.

As far as liability for denying G.D. the opportunity to remain at Canal Side, both Canal Side and Kademani are liable. Section 5 (h)(1) of the PHRA declares that "any person" can violate this provision. Here, joint and several liability attaches for the violation of section 5(h)(1).

With regard to G.D.'s Section 5(e) aiding and abetting allegation against Kademani, as G.D.'s post-hearing brief observes, a management employer can be held liable under an aiding and abetting theory for that individual's own acts of discrimination. *See* Davis v. Levy, Angctreich, Finney, Baldante, 20 F Supp 2d 885, 887 (E.D. Pa. 1998.)

This brings us to the question of an appropriate remedy. When fashioning an appropriate remedy the PHRC has broad discretion. Murphy v. PHRC, 506 PA. 549, 486 A.2d 388 (1985).

Section 9(f)(1) of the PHRA states in pertinent part:

> If upon all the evidence at the hearing, the Commission shall find that a respondent has engaged in... any unlawful discriminatory practice as defined in this act, the Commission shall state its findings of fact, and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful discriminatory practice and to take such affirmative action, including, but not limited to, reimbursement of certifiable travel expenses in matters involving the complaint, compensation for loss work in matters involving the complaint...or...leasing specific housing accommodations...upon such equal terms and conditions and with such equal facilities, services and privileges...upon such equal terms and conditions to any person discriminated against... and any other verifiable, reasonable out-of-pocket expenses caused by such unlawful discriminatory practice, provided that, in those cases alleging a violation of Section 5(e) or (h)...where the underlying complaint is a violation of Section 5(h)...the Commission may award actual damages, including damages caused by humiliation and

> embarrassment, as, in the judgment of the Commission, will effectuate the purposes of this act, and including a requirement for report of the manner of compliance.

Section 9(f)(2) also authorizes the assessment of a civil penalty "in an amount not exceeding ten thousand dollars..."

In G.D.'s post-hearing brief, G.D. requests #350,000.00 in general damages and an array of injunctive relief. G.D. also submits that a civil penalty of $10,000.00 should be imposed. In the Respondents' post-hearing brief, without citing any authority, the Respondents argue that since G.D. did not present any expert testimony to substantiate that G.D.'s emotional state was affected by G.D.'s removal from Canal Side, G.D.'s damages should be limited to the events of January 2 and 3, 2008.

First, we reject the Respondents' contention that expert testimony is necessary to support a claim for general damages resulting from humiliation and embarrassment due to unlawful discrimination. Both federal and state courts have upheld general damage awards resulting from housing discrimination without expert testimony on causation. *See* Secretary of Housing & Urban Dev. V. Blackwell, 908 F.2d 864, 872 (11th Cir. 1990). Medical evidence on mental symptoms is not required. *See* Johnson v. Hale, 940 F.2d 1192, 1193 (9th Cir. 1991), and a Complainant's testimony alone may establish the fact that a Complainant suffered humiliation and embarrassment in a discrimination case.

Here, the embarrassment and humiliation to which G.D. and Queen D. testified is not beyond the understanding of a layperson. Furthermore, humiliation and embarrassment can be inferred from the surrounding circumstances as well as established by testimony. Seaton v. Sky Realty Co. Inc., et al, 491 F.2d 634, 636 (7th Cir. 1974), *See also* HUD v. Blackwell, 2 FHFL ¶25001 (HUD ALJ. Dec 21, 1989), *aff'd* 908 F.2d 844 (llth Cir.

1990). The key factor in determining the size of an award for humiliation and embarrassment is a victim's reaction to discriminatory conduct. HUD v. Banai, 2 FHFL ¶ 25095 (HUD ALJ. Feb 1995).

Here we observe that G.D., at age 36, has been living with HIV since having been diagnosed in 1998. (R.E. 10 at 42). G.D. is also bipolar and has schizophrenia. (N.T. Vol 1 at 88-98). We know that G.D.'s life has been difficult. She has three children ages 16, 14 and 12. (N.T. Vol 1 at 141). We also know that in 2006, G.D.'s sister, Queen D., brought G.D. and her three children from New Jersey to live with her in Easton Pennsylvania. (N.T. Vol 1 at 69). At that time, G.D. was enbroiled in serious child custody issues and struggling. (N.T. Vol 1 at 70; R.E. 10 at 10).

When G.D. came to live with Queen D. in 2006, G.D. was not speaking, she was bald, she wore diapers for incontinence, and she was frightened, had nightmares and could not sleep, and was depressed. (N.T. Vol 2 at 79; R.E. 10 at 22, 88-89). While at Step by Step, G.D. was often sad and cried and had difficulty remembering daily chores. (R.E. 8 at 55). In fact, G.D. testified that she hated living at Step by Step.

The thought of moving to Canal Side appealed to G.D. and she expressed happiness upon returning from a tour of Canal side on December 11, 2007. Indeed, G.D. testified that Canal Staff treated her nice and she had no trouble with either the staff or her roommates. (N.T. Vol 1 at 159; C.E. 17; R.E. 7 at 188; R.E. 9 at 61-62).

Until Kademani, with cold indifference, bluntly told G.D. that she would have to leave Canal Side because she had HIV, G.D. was prepared to make the best of her situation. Upon being told she had to leave within 24 hours, G.D. cried for an extended

time. G.D. called Queen D. but was too embarrassed to tell her what had transpired and that she had been told she had to leave Canal Side.

Once back at Queen D's home, G.D. was initially happy to see her children but it did not take G.D. long to become quiet and pace the house. (N.T. Vol 1 at 83). Queen D. also testified that upon her arrival at Queen D.'s home, G.D.'s sadness and fearfulness were much greater than before. (N.T. Vol 2 at 67). When G.D. and Queen D. spoke of the reasons Queen D. came to get G.D. from Canal side, G.D. cried. (N.T. Vol 1 at 83). G.D. continued to be embarrassed at being "thrown out" of Canal Side after thinking she had done nothing wrong. (N.T. Vol 1 at 69, 143).

For several months after having been brought back to Queen D.'s home, the entire family, and neighbors made sacrifices to assist with G.D.'s care. (N.T. Vol 1 at 84; N.T. Vol 2 at 69). However, after several months, Queen D. came to the conclusion that she could no longer care for G.D. (N.T. Vol 2 at 69). G.D. was taken to a shelter where after approximately two days she was referred to St. Luke's Hospital for mental evaluation. Having no place to discharge G.D., St. Luke's kept G.D. in a locked psychiatric unit until a suitable placement could be found. (N.T. Vol 2 at 80). G.D. remained in the locked environment for approximately three months. (N.T. Vol 2 at 80).

While at St. Luke's G.D. periodically called Queen D. pleading with her to bring her home. G.D. told Queen D. that by being at St. Luke's she was "with a bunch of Kooks", and she does not "belong here". (N.T. Vol 2 at 79). Queen D. emotionally testified that she had to tell G.D. she could not take her. (N.T. Vol 2 at 79). Eventually, a suitable placement was found for G.D. and she was released from St. Luke's and moved to Manor Care, the facility where G.D. currently resides.

Considering G.D.'s history and the entire circumstances surrounding being made to leave Canal Side, an award of $50,000.00 is deemed appropriate to compensate G.D. for the humiliation and embarrassment she suffered which was neither transient nor trivial. Additionally, an award of six percent interest is appropriate. Brown Transport Corp v. PHRC, 587 A.2d 55 (Pa. Cmwlth Ct. 1990).

With minor modification, G.D.'s post-hearing brief also requests the following injunctive relief:

> Require the Respondents to:
>
> Establish non-discrimination, reasonable accommodation, and universal precautions policies, which specifically state that Canal Side will admit otherwise qualified persons with HIV/AIDS.
>
> Remove all facially discriminatory policies from Canal Side's Admission/Discharge Procedure and Basic Guide:
>
> Post non-discrimination policies in all of Canal Sides advertising and admission procedures;
>
> Notify all referral sources that Canal Side has a nondiscriminatory policy and admits otherwise qualified persons with HIV/AIDS;
>
> Implement annual training of all staff on discrimination, universal precautions, and HIV transmission; and
>
> Keep bimonthly record-keeping of the above relief, with mandatory reports to be made to the PHRC, the Department of Public Welfare, and/or appropriate agencies, with a three year jurisdiction retained by the PHRC.

After due consideration of the injunctive relief requested, we find that the requested relief is reasonable.

Next we turn to the issue of an appropriate civil penalty. To vindicate the public interest, the PHRA authorizes the imposition of a civil penalty upon a Respondent who

has violated the housing provision of the PHRA. Determining an appropriate penalty requires consideration of five factors: (1) the nature and circumstance of the violation; (2) the degree of the respondent's culpability; (3) the goal of deterrence; (4) whether a respondent has previously been found to have committed unlawful housing discrimination; (5) a respondent's financial resources. *See e.g.*, HUD v, Jerrard, 2 FHFL ¶25,005 (HUD ALJ Step. 28, 1990); HUD v. Blackwell, 2 FHFL ¶25,001 (HUD ALJ Dec. 21, 1989).

Here, the nature and circumstances of Kademani's action, the degree of the Respondent's culpability, and the goal of deterrence call for the imposition of a civil penalty. Rather than accept Bloss' informed communication regarding G.D. not being a risk as long as universal precautions were followed. Kademani still insisted on G.D.'s removal from Canal Side.

Giving consideration to the evidence presented in this case as it relates to the five factors listed above, we determine that a civil penalty in the amount of $5,000.00 is appropriate.

An appropriate order follows.

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

G. D.,	:	
Complainant	:	
	:	**PHRC CASE NO. 200705453**
v.	:	**HUD CASE NO. 03-08-0334-8**
	:	
Canal Side Care Manor, LLC d/b/a	:	
Canal Side Care Manor and	:	
Lakshmi Kademani,	:	
Respondents	:	

RECOMMENDATION OF THE HEARING PANEL

Upon consideration of the entire record in the above-captioned matter, the Hearing Panel finds that G.D. has proven discrimination against the Canal Side and Kademani in violation of Section 5(h)(1) of the Pennsylvania Human Relations Act and against Kademani in violation of Section 5(e) of the PHRA.

It is, therefore, the Hearing Panel's recommendation that the attached Joint Stipulations of Facts, Findings of Fact, Conclusions of Law, and Opinion be approved and adopted by the full Pennsylvania Human Relations Commission. If so approved and adopted, the Hearing Panel recommends issuance of the attached Final Order.

By: Sylvia A. Waters

Sylvia A. Waters
Hearing Panel Chairperson

Dr. Raquel O. Yiengst

Dr. Raquel O. Yiengst
Panel Member

Ismael Arcelay

Ismael Arcelay
Panel Member

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

G. D., **Complainant** **v.** **Canal Side Care Manor, LLC d/b/a Canal Side Care Manor and Lakshmi Kademani,** **Respondents**	: : : : : : : : : :	**PHRC CASE NO. 200705453** **HUD CASE NO. 03-08-0334-8**

FINAL ORDER

AND NOW, this 28th day of September, 2010, after a review of the entire record in this matter, the Pennsylvania Human Relations Commission, pursuant to Section 9 of the Pennsylvania Human Relations Act, hereby approves the foregoing Joint Stipulations of Facts, Findings of Fact, Conclusions of Law and Opinion of the Hearing Panel. Further, the Commission adopts said Joint Stipulations of Facts, Findings of Fact, Conclusions of Law and Opinion as its own finding in this matter, and incorporates the same into the permanent record of this proceeding, to be served on the parties to the complaint and hereby

ORDERS

1. Canal Side and Kademani shall permanently cease and desist from engaging in any acts or practices which have the purpose or effect of denying equal housing opportunities because of an individual's disability.

1. That jointly and severally, Canal Side and Kademani shall pay G.D. the lump sum of $50,000.00 in compensatory damages for the humiliation and embarrassment G.D. suffered.

2. The Canal Side and Kademani shall pay an additional interest of 6% per annum on the compensatory damage award calculated from January 2, 2008 until the payment is made.

3. That within thirty days of the effective date of this Order, Canal Side and Kademani shall deliver to PHRC Housing and Commercial Property Division, Chief Counsel, Stephanie M. Chapman, a single check payable to the Commonwealth of Pennsylvania in the amount of $5,000.00, which amount represents an assessment of a civil penalty pursuant to Section 9 (f)(2)(i) of the PHRA.

4. That the Respondents shall

   a. Within 60 days of this Order, establish non-discrimination, reasonable accommodation, and universal precautions policies, which specifically state that Canal Side will admit otherwise qualified persons with HIV/AIDS.

   b. Within 60 days of this Order, remove all facially discriminatory policies from Canal Side's Admission/Discharge Procedure and Basic Guide

   c. Begin to post non-discrimination policies in all of Canal Side's advertising and admission procedures.

d. Notify all referral sources that Canal Side has a nondiscriminatory policy and admits otherwise qualified persons with HIV/AIDS.

e. With qualified individuals approved by the PHRC, annually train Canal Side staff on HIV transmission, universal precautions, and rights of individuals under the PHRA.

f. Keep bi-monthly records of provisions 4 a-e above, and submit quarterly reports to the PHRC, the Department of Public Welfare, and/or appropriate agencies, for a period of three Years.

5. That within thirty days of the effective dated of this Order, Canal Side and Kademani shall report to the PHRC on the matter of their compliance with the Terms of this Order by letter addressed to Stephanie M. Chapman, Assistant Chief Counsel, PHRC, Housing and Commercial Property Division, P.O. Box 3145, Harrisburg, PA 17105.

PENNSYLVANIA HUMAN RELATIONS COMMISSION

By: _____
Stephen A. Glassman
Chairperson

Attest:

_____
Dr. Daniel D. Yun
Secretary

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

G.D., Complainant	:	
v,	:	PHRC CASE NO. 200705453 HUD Charge No. 03-08-0334-8
Canal Side Care Manor, LLC d/b/a Canal Side Care Manor and Lakshmi Kademani, Respondents	:	

DISSENT

CONCURRING IN PART AND DISSENTING IN PART

DISSENT

I hereby concur that G.D. was the victim of unlawful discrimination, however, I would not award damages in this case. In my opinion, G.D. failed to sufficiently establish embarrassment and humiliation damages. Accordingly, I dissent from the majority opinion's award of damages in this case.

PENNSYLVANIA HUMAN RELATIONS COMMISSION

By: Gerald S. Robinson

Gerald S. Robinson, Esquire
PHRC Commissioner

PHRC Case Management System-Cases
Case Summary

Gladys Davis vs. Lakshmi Kademani / Canal Side Care Manor **Case Number:** 200705453 Go