

Utah Antidiscrimination and Labor Advisory Council
Meeting Minutes
November 13, 2008
12:00 pm to 1:00 pm
Room 319

Council Members in attendance:

Sherrie Hayashi, Commissioner
Heather Morrison, UALD Division Director
Monica Whalen, Employer Representative
Ralph Chamness, General Public Representative
John Salazar Sr., Employee Representative
Keith Nielson, Landlord Representative

Commission Staff in attendance

Sara Danielson, Council Secretary
Brent Asay, Wage Claim Unit Manager
Monica Austen-Smith, Employment Discrimination Case Manager
Hap Stephens, ADR Coordinator
Troy Crossley, Fair Housing Case Manager
Ashlee Jolley, Legal Counsel
Richard La Jeunesse, Presiding Law Judge

Not in attendance:

James Deans, Landlord Representative
Jathan Janove, Employer Representative
Alison Draper, Tenant Representative
Tony Montano, Employee Representative
John Chindlund, Employer Representative
Michael Styles, General Public Representative
Rick Thaler, General Public Representative
Marty Blaustein, Tenant Representative
Robert Wilde, Employee Representative

Commissioner Hayashi called the council meeting to order at 12:00 pm. Sherrie welcomed everyone.

Approval of Minutes for the Last meeting

A quorum of the council was not present, so approval of the minutes was tabled until the next meeting. (November '07, February '08, May '08, August '08, and November '08 minutes will be up for approval.)

Discussion Issues

Potential Inconsistencies between Utah Code Ann. §§34-28-1 and -7 –

Proposed language was presented. Those in attendance approved the proposed language with the modification that the words “in writing” be added. Therefore, the proposed change to §34-28-1 would be “any other employment where an agreement, approved by the Division in writing pursuant to §34-28-7, exists between employer and employee providing for different terms of payment.”

Heather mentioned that Alan Hennebold was concerned about opening up the statute for such a change. He suggested that this wait until there were more changes to be made to the statute.

Sherrie stated that a copy of the District Court case decision that brought this issue to light, would be obtained and distributed to the council.

Proposed amendments to the payment of wages statutes – Pay Cards –

Brent reported that he had looked at other states that allow pay cards and drafted proposed language for a rule. He based the language on the current statute and practice of the Division.

Sherrie asked about what information was found about fees and the use of pay cards. Brent stated that if a pay card is used at an ATM there is a fee to the employee, however, if the pay card was taken to a bank teller at a bank associated with the card, there was no fee.

Ralph raised a concern about the proposed language of providing a pay stub electronically for those employees that do not have access to email or the internet. He suggested that the language be adjusted to accommodate this circumstance.

Sherrie suggested that the proposed language be put into the correct rule format and distributed to the council, so that we could move forward at the next meeting.

Attorney Fees in Wage Claims –

Brent reviewed the history of attorney fees in wage claims. He stated that his research found that reasonable fees is the standard wording for awarding attorney fees and is limiting to prevailing plaintiffs.

Sherrie asked Heather and Brent to prepare proposed language for a statutory change, leaving the awarding of fees up to the hearing officer.

Proposed Adjudication Rule for UALD cases –

Richard La Jeunesse, Presiding Law Judge, presented that proposed rule to the council.

Sherrie stated that the proposed rule will be emailed to the council with a deadline for comments. The Commission would like to move forward with this rule.

Division Information Updates

Heather introduced Troy Crossley, who is the new Fair Housing Manager. Hap Stephens has accepted the position of ADR Coordinator, which was vacated at Bel Randall's retirement.

Heather also stated that Division case loads are rising with the change in the economy.

Sherrie adjourned the meeting at 1:00 pm.

Next Meeting – February 12, 2009