

STATE PERSONNEL BOARD, STATE OF COLORADO
Case No. 2015G091(c)

ORDER OF THE STATE PERSONNEL BOARD ADOPTING THE INITIAL DECISION OF THE
ADMINISTRATIVE LAW JUDGE AND REVERSING THE DECISION AS TO THE AWARD OF
ATTORNEY'S FEES TO THE COMPLAINANT

LYNN A. MICHEL
Complainant,

vs.

DEPARTMENT OF TRANSPORTATION
Respondent.


This matter is before the Colorado State Personnel Board ("Board") at its regularly scheduled meeting held on November 15, 2016. During this public session, the Board considered the record of this case, including but not limited to:

1. Initial Decision of the Administrative Law Judge;
2. Complainant's Opening Brief;
3. CDOT's Opening Brief;
4. Amended Complainant's Opening Brief;
5. CDOT's Answer Brief;
6. Complainant's Answer Brief (received October 24, 2016);
7. Complainant's Answer Brief (received November 2, 2016);
8. CDOT's Reply Brief.

Based upon the Board's review and consideration of the Initial Decision of the Administrative Law Judge and the record, the Board adopts the Findings of Fact of the Administrative Law Judge. The Board adopts Conclusion of Law 1 that Respondent discriminated against Complainant on the basis of age, in violation of the Colorado Anti-Discrimination Act (CADA), § 24-34-401, *et seq.*, C.R.S. The Board reverses Conclusion of Law 2 and awards attorney's fees and costs to the Complainant based on facts including that the supervisor was found not to be credible in his denial of a statement made to Complainant, and that, in the Board's adjudgment, the actions by Respondent were in bad faith and were otherwise groundless.

IT IS HEREBY ORDERED that the Initial Decision of the Administrative Law Judge is **ADOPTED**, and that Conclusion of Law 2 is **REVERSED** to award attorney's fees and costs to the Complainant. The matter shall be remanded to the Administrative Law Judge for further proceedings to determine the amount of attorney's fees and costs to be awarded.

Dated this 17 day
Of November, 2016.



Neil Peck, Board Chair
State Personnel Board
1525 Sherman Street, 4th Floor
Denver, CO 80203

NOTICE OF APPEAL

1. To abide by the decision of the State Personnel Board; or
2. To appeal this decision to the Colorado Court of Appeals within 49 days pursuant to Section 24-50-125.4(3), C.R.S., in the method described at Section 24-4-106(11), C.R.S., and in accordance with applicable Colorado Appellate Rules.

In the event this decision is appealed, the party filing the appeal with the Court of Appeals must name in the appeal and serve such appeal upon the State Personnel Board and all other parties who have appeared as parties to this action. See Section 24-4-106(11)(d), C.R.S. The State Personnel Board can be served at: 1525 Sherman Street, 4th Floor, Denver, Colorado 80203.

CERTIFICATE OF MAILING

This is to certify that on the 17th day of November 2016, I electronically served a true copy of the foregoing **ORDER OF THE STATE PERSONNEL BOARD ADOPTING THE INITIAL DECISION OF THE ADMINISTRATIVE LAW JUDGE AND REVERSING THE DECISION AS TO THE AWARD OF ATTORNEY'S FEES TO THE COMPLAINANT** as follows:

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