



COPY

STATE OF WEST VIRGINIA HUMAN RIGHTS COMMISSION  
215 PROFESSIONAL BUILDING  
1036 QUARRIER STREET  
CHARLESTON, WEST VIRGINIA 25301  
TELEPHONE 304-348-2616

ARCH A. MOORE, JR.  
Governor

October 10, 1985

Sue Holbert  
1506 Woodland Drive  
Charleston, WV 25302

Cynthia L. Turco, Esq.  
P. O. Box 273  
Charleston, WV 25321

RE: Sue Holbert V Laury's, Inc.  
EA-329-79  
ES-337-79

Dear Ms. Holbert and Ms. Turco:

Herewith please find the Order of the WV Human Rights Commission in the above-styled and numbered case of Sue Holbert V Laury's, Inc. EA-329-79 & ES-337-79.

Pursuant to Article 5, Section 4 of the WV Administrative Procedures Act [WV Code, Chapter 29A, Article 5, Section 4] any party adversely affected by this final Order may file a petition for judicial review in either the Circuit Court of Kanawha County, WV, or the Circuit Court of the County wherein the petitioner resides or does business, or with the judge of either in vacation, within thirty (30) days of receipt of this Order. If no appeal is filed by any party within (30) days, the Order is deemed final.

Sincerely yours,

Howard D. Kenney  
Executive Director

HDK/kpv

Enclosure

CERTIFIED MAIL/REGISTERED RECEIPT REQUESTED.

BEFORE THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

SUE HOLBERT  
COMPLAINANT,

V

DOCKET NO: EA-329-79  
ES-337-79

LAURY'S, INC.  
RESPONDENT.

ORDER

On the 19th day of September 1985, the Commission reviewed Hearing Examiner Theodore R. Dues, Jr.'s Findings of Fact and Conclusions of Law. After consideration of the aforementioned, the Commission does hereby adopt the Findings of Fact and Conclusions of Law as its own.

It is hereby ORDERED that the Hearing Examiner's Findings of Fact and Conclusions of Law be attached hereto and made a part of this Order.

By this Order, a copy of which to be sent by certified mail, the parties are hereby notified that THEY HAVE TEN DAYS TO REQUEST A CONSIDERATION OF THIS ORDER AND THAT THEY HAVE THE RIGHT TO JUDICIAL REVIEW.

Entered this 10th day of October, 1985

RESPECTFULLY SUBMITTED,

Betty Baxter Hamilton  
CHAIR/VICE-CHAIR  
WV HUMAN RIGHTS COMMISSION

**RECEIVED**

JUL 24 1985

W.V. HUMAN RIGHTS COMM.

BEFORE THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

SUE HOLBERT,

Complainant,

vs.

Docket Nos. EA-329-79;  
ES-337-79

LAURY'S, INC.

Respondent.

**EXAMINER'S RECOMMENDED FINDINGS  
OF FACT AND CONCLUSION OF LAW**

This case matured for public hearing on July 17, 1985. The hearing was held at the Conference Room of the Daniel Boone Building, 405 Capitol Street, Charleston, WV. The panel consisted of Theodore R. Dues, Jr., Hearing Examiner. The parties waived the presence of a Hearing Commissioner. The Complainant appeared in person and by her counsel, Roxanne Rogers. The Respondent appeared by its counsel, Cynthia L. Turco and by Otis Laury, its representative.

**FINDINGS OF FACT**

1. The Complainant, SUE HOLBERT, is a white female age 49.
2. The Complainant is experienced in performing the duties of a waitress.
3. The Complainant was hired by the Respondent as a waitress in 1978 as a waitress.
4. Complainant's hours were reduced during the months of September 1978 to January 1979 as a result of a reduction in business.
5. The Complainant voluntarily left Respondent's employment in January 1979.

**CONCLUSION OF LAW**

1. The West Virginia Human Rights Commission has jurisdiction over the subject matter and the parties in this matter.

2. As in all cases, the Complainant bears the burden of proving the allegations of her complaint that the Respondent discriminated against her in its decision to reduce her hours of work in the latter part of 1978 .

3. The Complainant failed to establish a prima facie case by failing to introduce evidence to establish that the reduction in her hours was in any credible way connected to her age or sex.

5. Accordingly, the Complainant has failed to establish a violation of the West Virginia Human Rights Act.

**RELIEF**

Judgement for the Respondent.

DATED

July 22, 1978

ENTER:



THEODORE R. DUES, JR.  
Hearing Examiner