



**STATE OF WEST VIRGINIA HUMAN RIGHTS COMMISSION**

215 PROFESSIONAL BUILDING  
1036 QUARRIER STREET  
CHARLESTON, WEST VIRGINIA 25301

ARCH A. MOORE, JR.  
Governor

TELEPHONE: 304-348-2616

December 12, 1988

Russell A. Rager  
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Fairmont, WV 26554

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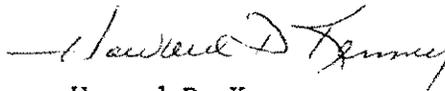
Re: Rager v. Guardsmark, Inc.  
EH-496-84

Dear Parties:

Herewith, please find the final order of the WV Human Rights Commission in the above-styled and numbered case.

Pursuant to WV Code, Chapter 5, Article 11, Section 11, amended and effective April 1, 1987, any party adversely affected by this final order may file a petition for review with the supreme court of appeals within 30 days of receipt of this final order.

Sincerely,

  
Howard D. Kenney  
Executive Director

HDK/mst  
Attachments

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

OF STATUTORY RIGHT TO JUDICIAL REVIEW  
AMENDED AND EFFECTIVE  
AS OF APRIL 1, 1937

Enr. H. B. 2638]

3

116 this article.

§5-11-11. Appeal and enforcement of commission orders.

1 (a) From any final order of the commission, an  
2 application for review may be prosecuted by either  
3 party to the supreme court of appeals within thirty days  
4 from the receipt thereof by the filing of a petition  
5 therefor to such court against the commission and the  
6 adverse party as respondents, and the clerk of such  
7 court shall notify each of the respondents and the  
8 commission of the filing of such petition. The commis-  
9 sion shall, within ten days after receipt of such notice,  
10 file with the clerk of the court the record of the  
11 proceedings had before it, including all the evidence.  
12 The court or any judge thereof in vacation may  
13 thereupon determine whether or not a review shall be  
14 granted. And if granted to a nonresident of this state,  
15 he shall be required to execute and file with the clerk  
16 before such order or review shall become effective, a  
17 bond, with security to be approved by the clerk,  
18 conditioned to perform any judgment which may be  
19 awarded against him thereon. The commission may  
20 certify to the court and request its decision of any  
21 question of law arising upon the record, and withhold  
22 its further proceeding in the case, pending the decision  
23 of court on the certified question, or until notice that the  
24 court has declined to docket the same. If a review be  
25 granted or the certified question be docketed for  
26 hearing, the clerk shall notify the board and the parties  
27 litigant or their attorneys and the commission of the fact  
28 by mail. If a review be granted or the certified question  
29 docketed, the case shall be heard by the court in the  
30 manner provided for other cases.

31 The appeal procedure contained in this subsection  
32 shall be the exclusive means of review, notwithstanding  
33 the provisions of chapter twenty-nine-a of this code:  
34 *Provided.* That such exclusive means of review shall not  
35 apply to any case wherein an appeal or a petition for  
36 enforcement of a cease and desist order has been filed  
37 with a circuit court of this state prior to the first day  
38 of April, one thousand nine hundred eighty-seven.

39 (b) In the event that any person shall fail to obey a  
40 final order of the commission within thirty days after  
41 receipt of the same. or, if applicable, within thirty days  
42 after a final order of the supreme court of appeals, a  
43 party or the commission may seek an order from the  
44 circuit court for its enforcement. Such proceeding shall  
45 be initiated by the filing of a petition in said court, and  
46 served upon the respondent in the manner provided by  
47 law for the service of summons in civil actions; a hearing  
48 shall be held on such petition within sixty days of the  
49 date of service. The court may grant appropriate  
50 temporary relief, and shall make and enter upon the  
51 pleadings, testimony and proceedings such order as is  
52 necessary to enforce the order of the commission or  
53 supreme court of appeals.

BEFORE THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

RUSSELL A. RAGER,

Complainant,

vs.

DOCKET NO. EH-496-84

GUARDSMARK, INC.,

Respondent.

O R D E R

On the 31st day of October, 1988, the West Virginia Human Rights Commission reviewed the parties' Stipulation on the Issue of Damages. The issue of damages was previously remanded to Hearing Examiner Theodore R. Dues, Jr., pursuant to the Commission's order of September 17, 1987, for further evidentiary development, either by stipulation of the parties or formal hearing.

After consideration of the Stipulation on the Issue of Damages filed by the parties on September 29, 1988, the Commission finds the stipulation reasonable and does hereby adopt in toto the Stipulation on the Issue of Damages as its own.

It is hereby ORDERED that the Stipulation on the Issue of Damages be attached hereto and made part of this order.

It is further ORDERED that a copy of this order shall be sent by certified mail to the parties.

ENTERED this 12<sup>th</sup> day of Dec 1988.

Respectfully submitted,

  
CHAIR/VICE - CHAIR  
WEST VIRGINIA HUMAN  
RIGHTS COMMISSION

BEFORE THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

RUSSELL A. RAGER,  
Complainant,

v.

GUARDSMARK, INC.,  
Respondent.

Docket No. EH-496-84

**RECEIVED**

SEP 29 1988

W.V. HUMAN RIGHTS COMM.

STIPULATION ON THE  
ISSUE OF DAMAGES

Pursuant to the Order of Remand issued by the West Virginia Human Rights Commission on September 17, 1987, the parties hereby agree and stipulate to the following:

1. Had Mr. Rager been employed by Guardsmark, Inc., beginning on December 27, 1983, he would have worked an average of 38.7 hours per week from December 1983 through and including November 20, 1986.

2. That from December 27, 1983, through and including December 31, 1984, Mr. Rager would have been paid at an hourly rate of \$3.80; that from January 1, 1985, through and including December 31, 1985, Mr. Rager would have been paid at an hourly rate of \$4.05; that from January 1, 1986, through and including November 20, 1986, Mr. Rager would have been paid at an hourly rate of \$4.25.

3. That Mr. Rager was unavailable for work during the following time periods due to hospitalization for treatment of his on-going heart condition:

August 10 through August 14, 1985

May 25 through June 3, 1986

June 29 through July 7, 1986

July 24 through August 6, 1986

August 17 through August 22, 1986

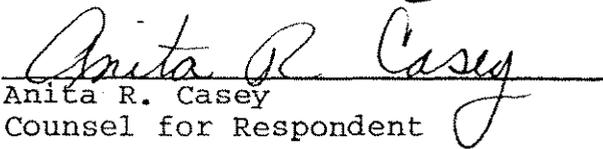
4. That Mr. Rager's lost wages for the period of December 27, 1983, through November 20, 1986, would have been as follows:

December 27, 1983 - December 31, 1983	\$147.06
January 1, 1984 - December 31, 1984	\$7,668.00
January 1, 1985 - December 31, 1985	\$8,060.66
January 1, 1986 - November 20, 1986	<u>\$6,6095.78</u>
TOTAL	\$22,571.50

5. Since December 27, 1983, the Claimant has earned, at least, the following amounts of money from the following sources:

1984	\$2,838.83	Pinkerton's, Inc.
1985	\$3,759.05	Pinkerton's, Inc.
1986	\$1,891.50	Fairmont General Hospital

  
F. Winston Polly, III  
Counsel for Complainant

  
Anita R. Casey  
Counsel for Respondent