

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

1400 Main Holdings, LLC,	:	
AJH Management Company, and	:	
Shay Carelly,	:	
Petitioners	:	
	:	
v.	:	No. 761 C.D. 2025
	:	
Pennsylvania Human Relations	:	
Commission,	:	
Respondent	:	Submitted: July 24, 2026

BEFORE: HONORABLE PATRICIA A. McCULLOUGH, Judge
HONORABLE CHRISTINE FIZZANO CANNON, Judge
HONORABLE MATTHEW S. WOLF, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE McCULLOUGH

FILED: October 19, 2026

This case returns to us after remand to the Pennsylvania Human Relations Commission (Commission) for redetermination of the compensatory damages and civil penalty to be paid by 1400 Main Holdings, LLC (Main Holdings), AJH Management Company (AJH), and Shay Carelly (Carelly) (together, Petitioners) in association with their failure to reasonably accommodate the disability of April Crenney (Crenney), a tenant of Petitioners, in violation of Section 5(h) of the Pennsylvania Human Relations Act (PHRA).¹ See *1400 Main Holdings, LLC v. Pennsylvania Human Relations Commission*, 326 A.3d 1040 (Pa. Cmwlth. 2024) (*1400 Main Holdings I*), appeal denied, 338 A.3d 109 (Pa. 2025).

¹ Act of October 27, 1955, P.L. 744, as amended, 43 P.S. § 955(h).

On remand, the Commission made additional findings of fact and conclusions of law. By order issued on May 19, 2025, the Commission reduced the compensatory damages award from \$60,000.00 to \$45,000.00 and the civil penalty from \$7,000.00 to \$4,000.00. Petitioners again seek review in this Court, contending that both the compensatory damages award and civil penalty remain excessive and unsupported by the evidence.

After careful review, we affirm.

I. Background and Procedural History

In *1400 Main Holdings I*, we summarized the pertinent factual history of this case as follows:

Beginning in July 2021, Crenney and her husband leased an apartment from Main Holdings in a[] . . . building owned by AJH and managed by Carelly (Property). The terms of Crenney's lease required that she obtain permission prior to making any changes to the apartment and, upon termination, pay to have it restored to its original condition. . . .

On September 21, 2021, Crenney emailed Carelly and requested permission to install safety grab bars in the shower in her apartment. Carelly responded that permanent grab bars were not permitted, but Crenney could purchase and install suction-cup bars. On October 15, 2021, an attorney emailed Carelly on Crenney's behalf and advised that metal grab bars were necessary to meet Crenney's needs and that plastic grab bars were insufficient. Carelly responded the same day that Petitioners' position was not going to change.

On October 28, 2021, Crenney filed a complaint with the Commission, alleging that Petitioners' failure to accommodate her disabilities by . . . permitting the installation of metal grab bars in the shower violated Section 5(h) of the PHRA, 43 P.S. § 955(h). A Permanent Hearing Examiner (Hearing Examiner) held a public hearing on October 13, 2023, and thereafter issued findings of fact, conclusions of law, and a recommended disposition. Therein,

. . . [w]ith regard to Crenney’s claim under Section 5(h)(3.1)² of the PHRA related to the requested grab bars, the Hearing Examiner concluded that Crenney established a *prima facie* case of unlawful discrimination. The Hearing Examiner further concluded that Petitioners did not establish that the requested modification to the shower was unreasonable.

The Hearing Examiner recommended an award of \$60,000.00 in compensatory damages for humiliation and embarrassment and the imposition of a civil penalty in the amount of \$7,000.00. On January 22, 2024, the Commission approved the Hearing Examiner’s findings of fact, conclusions of law, and opinion and ordered that Petitioners (1) cease from any discriminatory conduct; (2) attend fair housing training; (3) pay Crenney \$60,000.00 in damages; and (4) pay to the Commonwealth a civil penalty in the amount of \$7,000.00.

1400 Main Holdings I, 326 A.3d at 1047 (internal citations and most footnotes omitted).

Petitioners challenged in this Court both the Commission’s compensatory damages award and civil penalty, arguing pertinently that both were unsupported by substantial evidence in the record. We agreed, in part, and vacated. We reasoned:

The Commission concluded . . . that Petitioners engaged in ongoing discriminatory conduct because they had not permitted the installation of permanent grab bars in Crenney’s shower as of the date of the hearing before the Commission. This was error.

² Section 5(h)(3.1) of the PHRA, in pertinent part, prohibits any person from refusing to “permit, at the expense of a person with a handicap, reasonable modifications of existing premises occupied . . . by such person if such modifications may be necessary to afford such person full enjoyment of the premises[.]” 43 P.S. § 955(h)(3.1). Section 5(h)(3.1) goes on to qualify, however, that, in the case of a rental, “a landlord may, where it is reasonable to do so, grant permission for a modification if the renter agrees to restore the interior of the premises to the condition that existed before the modification, with reasonable wear and tear excepted.” *Id.*

Crenney first requested the installation of permanent grab bars by email on Friday, September 17, 2021. Carelly responded by email on Tuesday, September 21, 2021, advising that permanent bars were not permitted, but removable bars could be installed. Two days later, on September 23, 2021, counsel for Crenney sent a letter to Carelly requesting that Crenney be permitted to install grab bars and threatening litigation if no response was received by October 1, 2021. Carelly responded by letter on September 27, 2021, again offering to permit installation of suction cup grab bars. After further exchanges of communication between Carelly and counsel on October 15, 2021, Crenney filed her complaint with the Commission on October 28, 2021. Protracted litigation of Crenney's claims continued until the Commission issued its Final Order on January 22, 2024. The fact that Crenney's claims were being litigated and that Petitioners defended against them . . . does not make Petitioners' violation ongoing for almost two years. The Commission's finding in this regard, particularly in light of its acknowledgment that Petitioners responded promptly to Crenney's accommodation request, participated fully in the proceedings before the Commission, and have no history of PHRA violations, is unsupported by evidence in the record and erroneous as a matter of law. We accordingly vacate the award and remand for reconsideration by the Commission.

. . . .

The Commission relied on two facts to impose a civil penalty in the amount of \$7,000.00: (1) permanent grab bars had not been installed in Crenney's shower two years after her initial request for them; and (2) Carelly's testimony that Petitioners' apartments are "somewhat high end[.]" . . . The purpose of the civil penalty is to deter future discrimination, and, at least in this case, these factors fairly assessed the need to deter Petitioners from future discriminatory conduct. However, we agree with Petitioners that the Commission's findings in this regard are unsupported in the record.

First, as we already have discussed, the Commission's finding that Petitioners' discriminatory conduct was

“ongoing” was erroneous and unsupported by the record. Second, the Commission’s determination that Petitioners could readily afford to pay a \$7,000.00 penalty also is unsupported in the record. The Commission relied exclusively on the “somewhat high end” status of the 376 apartments on the Property to arrive at an amount for the penalty and had before it no financial evidence supporting that determination. Although the Commission has considerable latitude in fashioning a penalty, it nevertheless must be supported by substantial evidence in the record. That is not the case here.

Because both of the findings on which the Commission relied to support its civil penalty are unsupported by substantial evidence in the record, we vacate the penalty and remand for reconsideration by the Commission.

Id. at 1049-50. We accordingly vacated the Commission’s decision, in part, and remanded for it to issue, if appropriate, a new damages award and penalty. We further authorized the Commission, if necessary, to make new findings without re-opening the record. *Id.* at 1050.

On remand, the Commission’s Permanent Hearing Examiner issued findings of fact, conclusions of law, a supporting opinion, and a proposed final order, all of which the Commission approved and adopted in total. As to Petitioners’ financial position, the Commission made new findings that the Property has 376 units and that Crenney’s rent was \$1,635.00 per month. As to Crenney’s embarrassment, humiliation, and emotional distress, the Commission newly found that Crenney could only shower twice per week, that she does not leave her apartment if she has not showered in a day or two, and that she cannot shower after 9:00 p.m. because she is overtaken by fear. (Commission FOF, ¶¶ 1, 4, 6, 7.) The Commission also again found that Petitioners had not installed permanent grab bars as of the October 13, 2023 hearing. *Id.* ¶ 13.

The Commission then considered (1) the nature and extent of Petitioners' discriminatory conduct and (2) the direct evidence of its impact on Crenney. As to the first factor, the Commission noted that, although Petitioners committed only a single discriminatory act, their financial justification for denying Crenney's requested accommodation was not supported by either Section 5(h) of the PHRA or Crenney's lease, both of which require that any costs associated with reasonable modifications to the Property be borne by Crenney, not Petitioners. (Commission Op. at 8-9.) As to the second factor, the Commission again noted the direct evidence in the record establishing that Petitioners' discriminatory conduct negatively impacted Crenney's health, social life, and relationship with her husband. *Id.* at 9-10. Considering both factors together, the Commission concluded that a reduced compensatory damage award of \$45,000.00 was appropriate. *Id.* at 10.

Regarding a civil penalty, the Commission noted that Petitioners participated in the hearing process, have no history of PHRA violations, and here engaged in only a single discriminatory act. The Commission further considered the additional evidence of Petitioners' financial position, including the number of apartment units on the Property and the amount of Crenney's rent. *Id.* at 10-11. Based on these facts, the Commission determined that a reduced civil penalty of \$4,000.00 was appropriate. *Id.*

The Commission entered its final order on May 19, 2025, therein directing, in pertinent part, that Petitioners pay to Crenney \$45,000.00 in compensatory damages and to the Commission a civil penalty of \$4,000.00. (Final Order, 5/19/25, at ¶¶ 2-3.)

Petitioners now seek review in this Court.

II. Issues³

Petitioners argue that the Commission's damages award and penalty are excessive, unsupported by substantial evidence in the record, and fail to serve the purposes of the PHRA. (Petitioners' Br. at 4.)

III. Discussion

A. Civil Penalty

For ease of analysis, we begin with the Commission's civil penalty. Petitioners contend that the penalty remains excessive because this was their first PHRA violation and they actively participated in the litigation of Crenney's claim. (Petitioners' Br. at 21-22.) The Commission argues in response that the penalty imposed, which is only 40 percent of the statutory maximum for first violations, is appropriate given (1) Petitioners' financial position, (2) Petitioners' unwillingness to further engage with Crenney about permanent grab bars, and (3) Petitioners' denial of a request for an accommodation that would not cost them anything. (Commission Br. at 28-20.)

Section 9(f)(2)(i) of the PHRA authorizes the Commission to impose a civil penalty for first-time housing discrimination violations in an amount not to exceed \$10,000.00. 43 P.S. § 959(f)(2)(i). The civil penalty's purpose is to deter future discrimination. *1400 Main Holdings I*, 326 A.3d at 1049. The Commission considered here, as it did previously, the following factors to determine an appropriate penalty amount: (1) the nature and circumstances of the violation; (2) the degree of culpability; (3) any history of prior violations; (4) the financial circumstances of the respondent;

³ Our review of a Commission determination is limited to deciding whether it is in accordance with the law, whether constitutional rights have been violated, and whether the Commission's findings are supported by substantial evidence in the record. *Garner v. Pennsylvania Human Relations Commission*, 16 A.3d 1189, 1197 n.3 (Pa. Cmwlth. 2011).

(5) the goal of deterrence; and (6) any other matters as justice may require. (Commission Op. at 10).⁴ The Commission concluded:

Here, the nature of [Petitioners'] action was a single discriminatory act. Regarding [Petitioners'] financial circumstances, . . . [g]iven Carelly's lack of knowledge [of Petitioners' annual budget], the Commission relies on the following evidence to determine [Petitioners'] financial circumstances. Crenney's rent when she moved in was \$1,635.00 per month. There are 376 units at 1400 Main. Carelly testified that the apartments are "somewhat high end."

There is no evidence that [Petitioners] have a history of violations. [Petitioners] actively participated in the hearing process. Based on all the evidence, the Commission finds that \$4,000.00 is an appropriate amount for the civil penalty.

(Commission Op. at 11) (citations omitted).

We discern no legal error by the Commission in this respect, and the penalty is supported by substantial evidence in the record. Although Petitioners engaged in only a single discriminatory act, the Commission appropriately considered Petitioners' financial position based on the number of apartment units at the Property and Crenney's monthly rent. We also note, as the Commission did, that Petitioners would not authorize permanent grab bars because the costs associated with their installation and removal were too high. (Reproduced Record (R.R.) at 156a-58a; 178a-80a; 201a.) Although Crenney never expressly offered to pay for the installation and removal work, Carelly acknowledged that Crenney's lease would require Crenney to

⁴ As we did in *1400 Main Holdings I*, we assume, without deciding, that these factors adequately assess the need for, and the amount of, a civil penalty. 326 A.3d at 1049-50.

pay for both. *Id.*; Crenney Lease, ¶ 22(A); R.R. at 216a.⁵ Section 5(h)(3.1) of the PHRA similarly provides that the costs of both reasonable modifications and the property's restoration to its pre-modification status are to be borne by the individual requesting the modifications. 43 P.S. § 955(h)(3.1). Given Petitioners' financial position and the fact that their justification for refusing the installation of permanent grab bars is contradicted by both Crenney's lease and the PHRA, we will not disturb the Commission's reduced civil penalty, which is only 40 percent of the statutory maximum for first-time violations. *See* 43 P.S. § 959(f)(2)(i).

B. Compensatory Damages⁶

Regarding the Commission's reduced compensatory damages award, Petitioners contend that the award is not supported by substantial evidence and does not serve the purposes of the PHRA because (1) Crenney never attempted to install suction cup grab bars; (2) the Commission improperly considered Petitioners' conduct as an "ongoing" violation of the PHRA; (3) Petitioners' single act of discriminatory conduct was not egregious or comparable to conduct in other cases where significant compensatory damages were awarded; and (4) the Commission awarded damages as if Crenney was deprived of the use of her entire apartment instead of only the shower. (Petitioners' Br. at 13-18.)

⁵ Paragraph 22(A) of the lease provides, in pertinent part: "If LANDLORD approves any proposal to remodel[,], paint[,], or otherwise alter the LEASED PREMISES, [TENANT] shall be responsible for restoring the LEASED PREMISES back to its original condition. Should TENANT fail to restore the LEASED PREMISES upon vacating, TENANT shall be financially responsible for the LANDLORD'S costs of restoring the LEASED PREMISES") (most caps in original). R.R. at 216a.

⁶ We acknowledge that the constitutionality of Section 9(f)(1)'s authorization of compensatory damage awards has been called into question. *See Reading Housing Authority v. Pennsylvania Human Relations Commission*, 349 A.3d 502, 516-18 (Pa. Cmwlth. 2025) (Leavitt, S.J., dissenting). Unless and until that provision is declared unconstitutional by our Supreme Court, however, we must apply it as written.

In these circumstances, Section 9(f)(1) of the PHRA authorizes the Commission to award damages for “humiliation and embarrassment, as, in the judgment of the Commission, will effectuate the purposes of [the PHRA]” 43 P.S. § 959(f)(1). As we stated in *1400 Main Holdings I*:

Damage awards under the PHRA serve a dual purpose: to discourage discrimination and to restore the injured party to his or her pre-injury status. The goal of the PHRA is to make persons whole for injuries suffered as a result of discrimination, and the Commission’s authority to fashion remedies is entitled to great deference. In addition, once a finding of discrimination is made, the decision as to the appropriate amount of an award is extremely fact-specific. Thus, evidence regarding both the nature of the discriminatory conduct and the victim’s reaction thereto is key. Further, we [have] explained that this Court will not disturb a remedial order of the Commission unless it constitutes a patent attempt to achieve ends that cannot fairly be said to effectuate the policies of the PHRA.

. . . .

The [Commission] may award damages for embarrassment and humiliation. In determining whether the evidence of emotional distress is sufficient to support an award, we look at both the direct evidence of emotional distress and the circumstances of the act that allegedly caused the distress. A complainant’s own testimony of embarrassment and humiliation can suffice to support an award for compensatory damages.

[O]ur cases require the Commission to make a fact-specific assessment of the nature of the discriminatory conduct and the victim’s actual mental and physical reactions to that conduct in fashioning an award that effectuates the purposes of the PHRA.

1400 Main Holdings I, 326 A.3d at 1045-46 (internal citations and quotations omitted).

On remand, the Commission again considered (1) Petitioners' discriminatory conduct and (2) its impact on Crenney to fashion a compensatory damages award. Under the first factor, the Commission emphasized that Petitioners' financial motive for denying Crenney the requested modification to her shower was unsupported by both Crenney's lease and the PHRA. *See* Commission Op. at 9. Thus, Petitioners refused, for financial reasons, an accommodation that would cost them nothing. *Id.* Under the second factor, the Commission made additional findings regarding the emotional and physical effects of Petitioners' conduct, *see* FOF, ¶¶ 1, 4, 6, 7, and determined that the impact was substantial. (Commission Op. at 9-10.) We conclude that, in this regard, the Commission properly applied the required factors and made findings supported by substantial evidence.

As to Petitioners' argument that Crenney never attempted to use suction cup grab bars, there is evidence in the record establishing that Crenney exceeded their weight capacity. *See* R.R. at 231a, 101a. We therefore do not find Crenney's failure to try them to be a relevant consideration in awarding damages. As to Petitioners' argument regarding an ongoing violation, although the Commission includes a finding that Crenney still had not installed permanent grab bars at the time of the hearing in October 2023, the Commission nevertheless recognized throughout its opinion this Court's directive on remand that Petitioners' conduct be considered a single discriminatory act. (Commission Op. at 8-11.) Petitioners' argument therefore is without merit.

As to the egregiousness of Petitioners' conduct, we note that compensatory damages for humiliation and embarrassment are based on both the nature of the discriminatory conduct *and* the impact of the conduct on the disabled person. We disagree with Petitioners' assertion that the nature of the conduct here

cannot, as a matter of law, support a compensatory damages award of \$45,000.00 if the impact of the conduct is proven and severe. For the same reason, we also disagree with Petitioners' contention that the Commission's damages award is of an amount that compensates Crenney for the loss of use of her entire apartment instead of only the shower. The Commission's damages award is based chiefly on (1) the unsubstantiated nature of Petitioners' financial concerns, and (2) the type and severity of the impact of Petitioners' conduct. (Commission Op. at 8-10.) Those are appropriate considerations in making a damages award, and they take into account the purposes of the PHRA to deter discrimination and restore an injured party to her pre-injury status. The Commission nowhere indicates that it attempted to compensate Crenney for the loss of use of her entire apartment, and we reject Petitioners' suggestions to the contrary.

Thus, and in sum, we conclude that the Commission's damages award is supported by substantial evidence, is free from legal error, and effectuates the policies of the PHRA. We accordingly will not disturb it.⁷

IV. Conclusion

Because the Commission's findings after remand are supported by substantial evidence and its decision is free from legal error, we affirm.

PATRICIA A. McCULLOUGH, Judge

⁷ Petitioners assert in their brief that Crenney was given permission in February 2024 to install permanent grab bars in her shower. (Petitioners' Br. at 15 n.1.) Petitioners further allege that Crenney vacated her apartment approximately 18 months later in August 2025, and, upon inspection of the apartment, Petitioners discovered that the grab bars never were installed. *Id.* These facts were not part of the record before the Commission, and Petitioners have not sought in this Court to reopen the record to include them. Thus, even to the extent that they could be relevant to Crenney's damages, these facts are not properly before this Court for consideration.

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	:	
Pennsylvania Human Relations	:	
Commission,	:	
Respondent	:	

ORDER

AND NOW, this 19th day of October, 2026, the May 19, 2025 order of the Pennsylvania Human Relations Commission is hereby AFFIRMED.

PATRICIA A. McCULLOUGH, Judge