

MEMORANDUM

The Minnesota Department of Human Rights (MDHR) has finished its investigation into this charge of discrimination and the Commissioner determines:

1. There is **PROBABLE CAUSE** to find that the respondent discriminated against the charging party because of her disability when it refused to allow her to bring her service animal to work.

Background

2. On February 28, 2018, the charging party filed this charge of discrimination (charge) and alleged the respondent discriminated against her in the area of employment, on the basis of the charging party's disability.¹ Specifically, the charging party alleged respondent refused to allow her service animal at work as an accommodation, in violation of the Minnesota Human Rights Act (MHRA).
3. MDHR cross-filed this charge with the Equal Employment Opportunity Commission (EEOC) on April 13, 2018. The respondent has more than 15 employees. The charging party did not file this charge with any other agency.
4. The respondent received a copy of the charge, provided MDHR with an answer to the charge, denied it discriminated against the charging party, and provided documents and witness interviews to support its position. The respondent asserts that it has "significant safety and practical concerns regarding the presence of an animal within the refinery gates related to emergency evacuation needs, alarms, and other operational consideration." Respondent also asserts that: 1) charging party satisfactorily performed the functions of her job without a service animal; 2) charging party did not have a service animal at the time of filing so the charge was untimely; and 3) charging party declined multiple alternative reasonable accommodations.
5. The charging party received a copy of the respondent's answer to the charge, submitted a rebuttal statement and additional documents, and participated in an investigatory interview.
6. MDHR considered all of these materials and interviewed relevant witnesses. MDHR limited its investigation to whether the respondent violated the MHRA.

Facts

7. Charging party is a veteran with a service-related disability.
8. Respondent operates a refinery in Saint Paul Park, Minnesota.
9. Respondent's refinery facility has several security measures, including security-monitored gates and tall metal turnstiles requiring electronic badge entry. The turnstiles are built to accommodate only one person at a time for entry and exit. If an evacuation order is given, those subject to the order must proceed to the nearest exit point (which may be a turnstile) and follow all other related instructions.

¹ Minn. Stat. § 363A.08, subd. 2.

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10. Respondent hired charging party to work as an Operations Scheduler/Administrative Assistant on December 1, 2014. Charging party works in a cubicle located in the refinery's secured perimeter which houses other cubicles and private office workspaces.
11. The essential functions of charging party's job include using software to electronically create and monitor work schedules for 20 refinery crews of four to seven operators each, working on a rotating schedule. The role also performs administrative support work for the Operations department.
12. In November 2015, respondent approved charging party's request for intermittent leave under the Family Medical Leave Act (FMLA) to attend therapy sessions. Respondent has accommodated all time off taken by charging party to attend therapy appointments.
13. A December 3, 2017 letter from charging party's psychiatric nurse practitioner to respondent disclosed charging party's service-related disability diagnosis and requested respondent permit her to bring a companion animal at work. Respondent denied the request.
14. A December 5, 2017 letter from charging party's Psychiatric Nurse Practitioner disclosed to respondent charging party's service-connected disability diagnosis and indicated it was "chronic in nature." The letter stated charging party would "greatly benefit from having a service dog to help prevent worsening of her condition and to help her cope with ongoing and persistent psychiatric symptoms."
15. On December 12, 2017, two of respondent's Human Resources (HR) representatives met with charging party to discuss her request for a service animal. They asked charging party how the service animal would react to smells, personal protective equipment, potential emergency situations, alarms, and other sounds at the refinery. Charging party indicated she did not know how the dog would react. At the time, charging party did not have a service animal.
16. On December 18, 2017, charging party notified respondent by email that she was accepted into a service animal training program, and that service animals were specifically trained to be desensitized to sounds.
17. The organization that trained the charging party's service animal is a Minnesota-based non-profit corporation that provides highly trained service animals, free of charge, for U.S. military veterans who have disabilities.
18. Respondent granted the charging party's request to take time off from work to attend the service animal training sessions.
19. On January 8, 2018, respondent's human resource representatives met with charging party to discuss "any work-related limitations she was experiencing, how a dog would help, and other potential accommodations that would be effective and reasonable." Respondent offered alternative accommodations of extra and/or more frequent breaks, a designated and private quiet area, a private office, phone/webinar meetings instead of in-person meetings, and a change in scheduled hours. At no time did a health care professional opine these changes in work place conditions would effectively accommodate charging party's disability.

20. On January 9, 2018, charging party emailed respondent and stated there was “no alternative to service dog that would be beneficial and provide what I am needing and what the service dog can provide.” Charging party told the respondent the non-profit service animal training organization’s Executive Director was willing to meet to discuss safety concerns related to her service animal. Charging party offered solutions for how her service animal would navigate turnstiles in case of an evacuation emergency at the refinery.
21. On January 15, 2018, respondent HR Director requested additional information from charging party and her medical provider so that it could evaluate what steps it needed to take to meet charging party’s needs while meeting the business and safety needs of the refinery operation.
22. On January 19, 2018, respondent’s HR Director made a second request for additional information. The request included a question that stated: “Does [charging party’s] medical condition prevent her from successfully performing one or more of her job functions, with or without reasonable accommodation?” In response, on January 26, 2018, charging party’s Psychiatric Nurse Practitioner stated “it is not within my scope of practice to evaluate a person’s ability to perform their job function(s).” The Practitioner’s response also stated that charging party would “greatly benefit from having a service dog to help prevent worsening of her condition....”
23. On January 24, 2018, charging party forwarded an email to the HR Compliance Officer in respondent’s San Antonio office regarding her request for a service animal. She stated she felt like she had stumbled into a roadblock with the local HR department. She disclosed that she was matched with her service animal, attended training two times a week for four to five hours each session, and would graduate the training program in June of 2018.
24. Charging party told the HR Compliance Officer that respondent stated that it had significant safety concerns regarding her service animal in its refinery fence line, but did not respond when she asked them to explain their significant concerns. In response to the charge, respondent told MDHR that its refinery produces a variety of smells, sounds (such as alarms or radio traffic), and other environmental factors each day. Workers wear personal protective equipment on the grounds, such as fire-resistant coveralls, hard hats, chemical monitors, or full body suits for work involving hazardous materials.
25. Charging party’s January 24th email acknowledged that she works in a building inside the fence line, but stated she works in the building all day, and her job very rarely requires her to go into the plant. Charging party is not required to undergo physical examination like employees that work in respondent’s plant. Charging party also stated the executive director for the non-profit organization that trained her service animal offered to “come out and do a demonstration and training session for [respondent], but they have not acknowledged that either.”
26. In a letter dated January 31, 2018, respondent denied charging party’s request to have a service animal in the work place based on safety concerns and refinery evacuation procedures. Respondent cited additional reasons beyond safety, stating “We do not have information about whether other possible accommodations would effectively address any impairment, nor do we have information indicating that you are unable to fully and effectively perform your essential job functions without a service animal present.”

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27. On February 5, 2018, charging party requested respondent participate in a phone conference with an ADA specialist and/or allow a site visit and training from the non-profits service animal training organization's executive director.
28. On February 7, 2018, the non-profit's Executive Director wrote a letter to the respondent in support of charging party's request for a service animal. The letter explained that the organization "primarily trains psychiatric service dogs to help with the challenges of [disabilities specific to the charging party]..." The letter stated charging party's dog would receive up to two years of training, and charging party "will complete at least 120 hours of handler training and must pass a public access test prior to graduation." The letter also stated charging party's service animal was trained to demonstrate and perform specific behaviors to help with various elements of one or more of her disabilities.
29. The non-profit's executive director stated charging party's service animal was specifically trained to navigate the unique turnstile apparatus safely and calmly. The executive director further offered his services to the respondent, including onsite workplace training and demonstrations. Respondent did not respond to the offer of assistance.
30. On February 8, 2018, respondent's HR Director acknowledged receipt of the letter from the executive director and stated: "I think it would be misleading for me to respond to you in a way that suggests that the decision on allowing a service or therapy animal in the refinery is likely to be reversed if we hear more about the nature of the dog, or the effectiveness of the dog as a potential treatment tool from a consultant or training provider...I do not think a meeting or call of the types you have suggested would be productive."
31. The February 8th letter from the HR Director again denied the charging party's request for a service animal stating:
 - (1) having even a very-well trained dog in the refinery poses a safety risk, particularly in light of the importance of our emergency evacuation procedures and nature of our operations;
 - (2) we believe (consistent with your own representation to us) that you currently are performing the essential job functions of your position effectively, and we have not seen an indication that the presence of such an animal is necessary for you to continue to perform those functions; and
 - (3) to the extent your medical condition may be impeding your ability to do your job, we believe there are other accommodations that may be effective and which we are willing to provide, such as a work station or office that is less distracting and disruptive.
32. On February 19, 2018, respondent's HR Director sent charging party a letter notifying her that it received her "complete and unedited psychological file" from the Department of Veterans Affairs. The HR Director noted the file was "helpful in affirming our position that the requested dog was beneficial, but not required for you to perform the essential functions of your job."
33. Respondent acquired charging party's previous employer in October 2018. Charging party renewed her request for a service animal on October 4, 2018, after the merger, and respondent continues to deny her request for accommodations on the grounds of safety concerns.

34. Charging party experiences intense physical and emotional symptoms related to her disability, including rapid heart-beat, rapid breathing, sweating, muscle tension, nausea, profound sadness, feeling detached from others, and avoiding activities or places. Charging party also experiences irritability, difficulty concentrating, and feeling jumpy or easily startled because of her disability.
35. Charging party's service animal began living with her in June 2018 after they completed training. Among other tasks, charging party's service animal performs a "visit" in response to signs of a panic attack, hypervigilance and anxiety by applying physical pressure to charging party's body until her heartbeat and breathing patterns return to a normal pace.
36. During MDHR's investigation, the non-profit's executive director stated charging party's service animal provides a non-chemical, non-addictive, scientifically effective means of reducing the symptoms related to her disability. He stated the service animal "acts as a friendly barrier in crowds allowing [charging party] the choice to maintain personal space and boundaries. [Charging party] can concentrate and perform better with her service dog when her focus is on the task at hand rather than the anxiety of group training or larger meetings. [The service animal] helps relieve [charging party's] hypervigilance by literally watching her back." This is also known as a "cover." The service animal also disrupts the charging party's sleep, if necessary, in response to symptoms related to her disability.
37. The executive director stated the service animal is also trained and acclimated to various turnstile type entryways, including revolving doors and metal turnstiles found at security checkpoints, hardware stores, athletic venues, etc. The service animal is acclimated to sirens and alarms so that he would not be fearful in case of an emergency incident.
38. The executive director also stated he believes charging party's separation from her service animal during the work day hurts their team effectiveness, and that the service animal's skills will diminish due to lack of work and will require additional training to regain workplace proficiency.
39. To date, the respondent has not reached out to the service animal training program or an ADA specialist.
40. Respondent continues to employ charging party. Throughout this investigation, charging party has communicated to MDHR that working without her service animal is becoming increasingly difficult and is causing a worsening of symptoms related to her disability.

Discussion

Ripeness

41. Before addressing the merits of charging party's claim, MDHR addresses respondent's assertion that the claim is not ripe for review. In its Answer, respondent argued that because charging party had not obtained a trained service animal when she initially requested one accompany her to work, her claim was not ripe.
42. MDHR applies the same ripeness standard that is applied by courts. Thus, to prove a case is ripe, charging party must show "to at least a minimal degree" that (1) the issues presented are "fit for [administrative] resolution," and (2) "significant harm" to the parties would result if MDHR withheld consideration.²
43. The first prong "depends on whether [a case] would benefit from further factual development," with ripeness "more likely ... if [the case] poses a purely legal question and is not contingent on future possibilities."³
44. Here, charging party requested a service animal accompany her to work in December of 2017. Respondent denied this request in January of 2018. Upon denial of the request for a service animal, the charging party prudently presented to MDHR the legal question of whether the denial constituted a violation of the MHRA by filing a charge. The question was fit for resolution upon respondent's denial of charging party's request for a reasonable accommodation of her disability.
45. Regarding the second prong, charging party credibly testified in her investigative interview that it is becoming more and more difficult to perform her job functions at work without the presence of her service animal. Both charging party's health care provider and the executive director of the service animal organization support this contention. To require charging party to wait several more months until she obtains her service animal to request an accommodation and file a charge in response to the denial would likely cause further significant harm to charging party.
46. Finally, MDHR notes that from a policy perspective, charging party should not be precluded from bringing a claim simply because she was proactive and made a request before actually obtaining the service animal in order to expedite what appears to be a very long process.
47. MDHR is unaware of any law that states when requesting a reasonable accommodation, an employee must have every tool, device, or in this case, animal, at the ready to implement the accommodation.
48. For these reasons, charging party's claim is ripe for MDHR's review.

² *Neb. Pub. Power Dist. v. MidAm. Energy Co.*, 234 F.3d 1032, 1037–38 (8th Cir. 2000). "Ripeness" is a justiciability doctrine designed to prevent the courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements over policies. *Abbott Labs. v. Gardner*, 387 U.S. 136, 148 (1967), *overruled on other grounds*, *Califano v. Sanders*, 430 U.S. 99 (1977).

³ *Pub. Water Supply Dist. No. 10 of Cass Cty. v. City of Peculiar*, 345 F.3d 570, 573 (8th Cir. 2003).

Legal Standard for Claim: Failure to Accommodate

49. The charging party alleged the respondent failed to provide a reasonable accommodation for her disability when it refused to allow her service animal at her place of employment.
50. It is an unfair employment practice for an employer not to make reasonable accommodation to the known disability of a qualified person with a disability.⁴ Reasonable accommodation means steps which must be taken to accommodate the known physical or mental limitations of a qualified person with a disability.⁵
51. Under the MHRA, a person has a disability if she has: (1) a physical, sensory, or mental impairment which materially limits one or more major life activities; (2) a record of such an impairment; or (3) is regarded as having such an impairment.⁶ However, if the impairments are only regarded as “transitory and minor,” or those that have an actual or expected duration of six months or less, the MHRA does not protect the employee.⁷
52. While the analysis varies depending on the facts and circumstances of (and the defenses raised in) a particular case, the charging party “at all times retains the burden of persuading the trier of fact that she has been the victim of illegal discrimination due to her disability.”⁸
53. To prove a failure to accommodate claim, the charging party must show the following three elements: (1) she was a qualified person with a disability; (2) the disability is known to the respondent; and (3) the respondent failed to make a reasonable accommodation.⁹
54. If the charging party establishes these three elements, then the respondent must provide a reasonable accommodation or demonstrate how doing so would impose an undue hardship¹⁰ or pose a serious threat to the health or safety of the charging party or others.¹¹

⁴ Minn. Stat. § 363A.08, subd. 6.

⁵ *Id.*

⁶ Minn. Stat. § 363A.03, subd. 12.

⁷ 42 U.S.C. § 12102(3)(B); *see also Eldredge v. City of St. Paul*, 809 F. Supp. 2d 1011, 1029 (D. Minn. 2011) (analyzing disability claim under the ADA and MHRA and noting that a disability must be permanent or long term, not temporary or transitory, to qualify a person for protection).

⁸ *Benson v. Northwest Airlines, Inc.*, 62 F.3d 1108, 1112 (8th Cir. 1995).

⁹ *Hoover v. Norwest Private Mortgage Banking*, 632 N.W.2d 534, 547 (Minn. 2001).

¹⁰ Minn. Stat. § 363A.08, subd. 6.

¹¹ Minn. Stat. § 363A.25 (the burden of proving this is on the respondent).

Discussion of Claim: Failure to Accommodate

55. Charging party established a failure to accommodate claim. First, charging party is a qualified person with a disability. Documentary evidence and testimony provided that charging party experiences intense physical and emotional symptoms related to her disability including, but not limited to, panic attacks, profound sadness, difficulty concentrating, and feeling jumpy or easily startled. These symptoms materially limit the charging party's ability to sleep, work, drive, and perform normal day-to-day activities. Respondent admits charging party can perform the essential functions of her job.
56. Second, respondent became aware of her disability when she provided a record of her impairment in the form of a letter from her Psychiatric Nurse Practitioner on December 3, 2017.
57. The third element requires more discussion. On December 5, 2017, a Psychiatric Nurse Practitioner unambiguously disclosed charging party's service connected-disability diagnosis to respondent and indicated it was "chronic in nature." The letter stated charging party would "greatly benefit from having a service dog to help prevent worsening of her condition and to help her cope with ongoing and persistent psychiatric symptoms."
58. A "service animal," as defined by the Americans with Disabilities Act (ADA), may be a dog, or in some cases a miniature horse, individually trained to do work or perform tasks for an individual with a physical, sensory, psychiatric, intellectual, or other mental disability.¹² The definition of service animal under the ADA and MHRA are aligned.¹³
59. Emotional support, therapy, comfort, or companion animals are not service animals under the ADA.¹⁴ These terms are used to describe animals that provide comfort just by being with a person. Because they have not been trained to perform a specific job or task, they do not qualify as service animals under the ADA.
60. Charging party's service animal is trained to "visit" in response to signs of a panic attack, hypervigilance and anxiety by applying physical pressure to charging party's body until her heartbeat and breathing patterns return to a normal pace. The service animal also disrupts the charging party's sleep, if necessary, in response to symptoms related to her disability.
61. MDHR interviewed the executive director for the non-profit organization that trained charging party's service animal. He stated charging party's service animal provides a non-chemical, non-addictive, scientifically effective means of reducing the symptoms related to her disability, and "acts as a friendly barrier in crowds allowing [charging party] the choice to maintain personal space and boundaries. [Charging party] can concentrate and perform better with her service dog when her focus is on the task at hand rather than the anxiety of group training or larger meetings. [The service animal] helps relieve [charging party's] hypervigilance by literally watching her back." This is also known as a "cover."

¹² 28 CFR § 35.104.

¹³ See Minn. Stat. § 363A.19 (c).

¹⁴ DEPT. OF JUSTICE: CIVIL RIGHTS DIV.: DISABILITY RIGHTS SECTION, FREQUENTLY ASKED QUESTIONS ABOUT SERVICE ANIMALS AND THE ADA (July 20, 2015), available at https://www.ada.gov/regs2010/service_animal_qa.html (last visited September 17, 2019).

62. Evidence is sufficient to show charging party's dog meets the definition of "service animal" as defined by the MHRA and ADA because it is individually trained to do work or perform tasks for an individual with a disability.
63. In a letter dated January 31, 2018, respondent denied charging party's request to bring her service animal to work.
64. The Department finds charging party established a failure to accommodate claim. The respondent is liable unless it can prove the requested accommodation would result in undue hardship.

Undue Hardship

65. Respondent essentially argues granting the request would result in undue burden and a threat to safety.
66. Minnesota Statute section 363A.08, Subdivision 6 (b), identifies several non-exclusive factors to consider in the undue burden analysis: 1) Size of the business/organization; 2) Type of operation; 3) Nature and cost of the accommodation; 4) Reasonable ability to finance the accommodation at each business site; and 5) Documented good faith efforts to explore less restrictive or less expensive alternatives.
67. First, respondent employs more than fifteen employees and is required under the MHRA to "make reasonable accommodation to the known disability of a qualified [] person [with a disability]" unless doing so would impose an "undue hardship".¹⁵ Respondent does not argue, and the record does not reflect, the size of respondent's business has any bearing on respondent's decision not to grant charging party's request.
68. Second, charging party's cubicle is located in a secured perimeter of respondent's refinery facility, but she primarily works in a building all day, and her job rarely requires her to go into the plant.
69. Third, there are no apparent costs associated with the charging party bringing her service animal to work.
70. Fourth, there is no evidence respondent would need to finance the accommodation at the business site.
71. Finally, MDHR notes that respondent offered charging party alternative accommodations. However, at no time did respondent present a medical or legal opinion that alternative proposals would accommodate charging party's disability. In fact, charging party indicated to MDHR that respondent's alternative accommodation, a private office, would exacerbate negative symptoms related to her disability due to increased isolation. In addition, separating an employee from others because of her disability, when neither she nor her provider suggested such a condition is appropriate, runs contrary to the letter and spirit of the MHRA.¹⁶
72. The above factors show that allowing a service animal in charging party's work site would not present an undue hardship on respondent.

¹⁵ Minn. Stat. § 363A.08, Subd. 6 (a) (emphasis added).

¹⁶ See, e.g., Minn. Stat. § 363A.03, subd. 13 ("The term 'discriminate' includes segregate or separate...").

73. Aside from the elements under Minn. Stat. § 363A.08, subd. 6, there is additional evidence suggesting the requested accommodation would not result in an undue hardship.¹⁷
74. The service animal organization's executive director corroborated charging party's claim that her service animal underwent specific training tailored to her worksite and respondent's safety concerns. He personally trained with charging party and her service animal and stated the service animal is acclimated to various turnstile type entryways, including revolving doors and metal turnstiles found at security checkpoints, hardware stores, and athletic venues. The service animal can safely and calmly navigate a large vertical turnstile, such as those at respondent's worksite, for use during an emergency evacuation, and is acclimated to sirens and alarms so that he would not be fearful in case of an emergency incident.
75. Respondent declined charging party's request that it speak to an ADA specialist related to her request for accommodations, declined an invitation from the non-profit's executive director to do an onsite training/demonstration to show how charging party's service animal would react in the refinery environment, and did not provide an analysis from its own Safety Specialist to support its claim that its work environment was not suitable for a service animal.
76. A February 8, 2018 letter from respondent's HR Director to charging party stated that it was unlikely respondent would reverse its decision not to allow her service animal even if it were to "hear more about the nature of the dog, or the effectiveness of the dog as a potential treatment tool from a consultant or training provider."
77. The Department does not discount respondent's purported safety concerns about having an animal in a plant that contains hazardous equipment and materials. However, testimony and charging party's job description suggest charging party spent the bulk of her time working in her cubicle. Charging party's cubicle is located in a secured perimeter of respondent's refinery facility, but she does not have to undergo a physical examination like employees that work in the plant. Additionally, the fact that respondent suggested a private office space as an effective alternative accommodation further suggests charging party works primarily in an office setting.
78. Respondent's undue hardship and safety arguments are unpersuasive because it did not sincerely explore the possibility of a service animal in the work place, and how such an animal may, or may not, be conducive to the work place.
79. Aside from arguing undue hardship and safety concerns, Respondent alternatively argued that it need not provide an accommodation because the charging party is able to perform the essential functions of her job without an accommodation. Respondent points to current and previous medical records which state charging party would greatly benefit from a service animal but did not state a service animal is necessary for charging party to meet her job's essential functions. This argument is unpersuasive for two reasons. First, respondent offered charging party alternative accommodations. This contradicts respondent's argument that it need not provide accommodations when an employee with a disability can do her job. Second, the Department is unaware of any authority suggesting an employee is

¹⁷ See *Peebles v. Potter*, 354 F.3d 761, 768 (8th Cir. 2004) (quoting *U.S. Airways, Inc. v. Barnett*, 535 U.S. 391, 401-402 (2002)).

precluded from requesting a reasonable accommodation simply because the employee appears to be able to fulfill the basic functions of her job without one.

80. To require a competent employee to suffer symptoms in the work place when a reasonable accommodation is readily available contradicts the very language of the MHRA. The MHRA requires employers to accommodate disabilities of “qualified” people with disabilities.¹⁸ The language of the ADA similarly runs counter to respondent’s rationale.¹⁹ The Act does not relieve respondent of its obligations to accommodate simply because an employee is qualified to do her job without a service animal.
81. Respondent’s second alternative argument is that charging party did not provide sufficient information to prove she needed the requested accommodation. It is true that “Reasonable Accommodation” under the MHRA means “steps which *must* be taken to accommodate the known physical or mental limitations of a qualified [person with a disability].”²⁰ And it is true that when respondent asked charging party’s nurse practitioner if charging party’s disability prevents her from performing her job with or without reasonable accommodation, the practitioner stated it was not within her scope of practice to evaluate a person’s ability to do her job.
82. However, there is ample evidence in the record regarding this issue aside from the nurse practitioner’s inconclusive response. The same nurse practitioner stated charging party would “greatly benefit” from a service animal to help mitigate ongoing psychiatric symptoms. The executive director of the service animal training program reported he believed the animal’s work tasks would likely reduce charging party’s symptoms. And finally, charging party credibly testified how the animal’s tasks reduce her symptoms. While a letter from a provider using language pulled straight from the MHRA or the ADA may have been ideal in this instance, MDHR finds by a preponderance of the evidence that allowing charging party to have a service animal at the work place constitutes a step which *must* be taken to accommodate her disability.
83. Respondent is required under the MHRA to provide a reasonable accommodation absent a showing of undue hardship or threat to safety. Respondent assumes, but has not provided any supporting evidence, that allowing a service animal at charging party’s worksite would cause a threat to safety or impede refinery evacuation procedures. The evidence does not show granting charging party’s accommodation request would cause an undue hardship or compromise safety.²¹
84. MDHR’s investigation found sufficient evidence to support the charging party’s claim that respondent failed to provide a reasonable accommodation of her disability.

¹⁸ Minn. Stat. § 363A.08, subd. 6.

¹⁹ See 42 U.S.C. § 12112 (discrimination includes “not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability...”).

²⁰ Minn. Stat. § 363A.08, subd. 6.

²¹ A recent federal court case with similar facts helps guide MDHR’s analysis. In *EEOC v. CRST Int’l, Inc.*, 1:17-CV-00129 (N.D. Iowa, 2019), the Equal Employment Opportunity Commission filed suit against an employer. The complaint alleged a veteran with a disability applied for a truck driver position. The applicant requested to bring his service animal with him when driving during work as a reasonable accommodation of his disability. Citing company policies, the employer refused to provide this accommodation. The parties negotiated a settlement in March of 2019 where the employer agreed to pay the applicant back pay and compensatory damages. The employer also agreed to implement training and changes to policies regarding reasonable accommodations of disabilities. See *EEOC, CRST to Pay \$47,500 to Settle EEOC Disability Discrimination and Retaliation Lawsuit* (Mar. 6, 2019), <https://www.eeoc.gov/eeoc/newsroom/release/3-6-19.cfm>.

Conclusion

85. THEREFORE, the MDHR determines that there is **PROBABLE CAUSE** to find that the respondent failed to provide a reasonable accommodation in violation of the MHRA.²²

Minnesota Department of Human Rights

FOR THE DEPARTMENT BY:

A handwritten signature in black ink, appearing to read 'R. Lucero', is positioned above the name of the Commissioner.

Rebecca Lucero, Commissioner

Dated: September 23, 2019

²² Minn. Stat. § 363A.08, subd. 6.