

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE MINNESOTA DEPARTMENT OF VETERANS AFFAIRS

Thomas J. Wangen, Petitioner

FINDINGS OF FACT, CONCLUSIONS AND

v.

RECOMMENDATIONS

City of Rochester, Respondent

The above-entitled matter came on for hearing before Administrative Law Judge Howard L. Kaibel, Jr., on July 5, 1995 at the Office of Administrative Hearings in Minneapolis, Minnesota. The record closed on July 20, 1995, the final deadline for submission of briefs.

Petitioner was represented by James T. Hansing, Attorney and Counselor, 840 Midland Square, 331 Second Avenue South, Minneapolis, Minnesota 55401. Assistant City Attorney, Sarah L. Clayton, 224 First Avenue SW, Rochester, MN 55902, appeared on behalf of the Respondent.

NOTICE

Notice is hereby given that, pursuant to Minn. Stat. § 14.61, the final decision of the Commissioner of Veterans' Affairs shall not be made until this Report has been made available to the parties to the proceeding for at least ten days, and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to the Commissioner. Exceptions to this Report, if any, shall be filed with the Commissioner of Veterans' Affairs, Bernie Melter, Veteran Service Building, 20 West 12th Street, St. Paul, Minnesota 55155-2079.

STATEMENT OF ISSUE

Where a veteran has been subjected to sexual and other harassment by a supervisor who is deliberately attempting to make the working environment intolerable, causing the veteran to write a protest letter indicating that he would not report for work the next day; can the public employer treat the employee as having "voluntarily resigned", waiving his rights under the Veterans' Preference Act to notice and a hearing on his removal?

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

## FINDINGS OF FACT

1. Petitioner is a 47 year old honorably discharged veteran of the United States Armed Forces.

2. Respondent is a Minnesota municipality.

3. Petitioner has been continuously employed full-time by Respondent as a buyer of supplies and equipment since June of 1988, through its subsidiary, Rochester Public Utilities (hereinafter: "RPU").

4. For the first several years after he was hired, Petitioner enjoyed his job and had no complaints regarding the working conditions. He was promoted to supervisor when another buyer was hired in 1990. There is no evidence in the record of any friction or discord of any kind involving the Petitioner until the summer of 1992.

5. During the summer of 1992 a sexual harassment complaint was filed by a young male summer employee at RPU against Petitioner's immediate supervisor, Mr. G.

6. The complaint charged Mr. G. with attempting to coerce the complaining employee into submitting to anal intercourse by threatening the employee with a knife.

7. RPU's personnel department investigated the complaint, conducting extensive interviews with the other employees who had dealt in the past with Mr. G.

8. Petitioner cooperated fully and candidly with this investigation, telling the interviewers of a previous incident of harassment by Mr. G. which he had experienced, involving non-consensual sexual touching.

9. Although this incident had upset Petitioner greatly at the time, because of a similar traumatic experience in his youth, he did not report it to Mr. G.'s supervisor until the personnel department specifically asked for the information during its 1992 investigation.

10. Respondent took disciplinary action against Mr. G. after the personnel department concluded its investigation, although the specifics were not communicated to the Petitioner until the RPU General Manager testified at this hearing.

11. Mr. G. agreed to take a two month leave of absence, including a two week suspension without pay, to undergo therapy at Mayo Clinic.

12. When Mr. G. returned from this leave of absence, it was evident that Petitioner's report of his harassment experience had been communicated to Mr. G.; because the office atmosphere changed dramatically.

13. Mr. G. called Petitioner and his assistant into his office and warned them bluntly that they should anticipate major changes in operations now that he was back in charge.

14. Beginning that week and at least once a week thereafter, for the next two years, Mr. G. made a point of telling Petitioner menacingly that either "thee or me" would soon be gone from RPU.

15. Beginning that week, Mr. G. revised reporting and communication regimens, excluding Petitioner from meetings he had previously attended. This made it exceedingly difficult and at times impossible for Petitioner to carry out his assigned responsibilities of keeping track of inventories and purchasing replacements efficiently and economically.

16. After Mr. G.'s return in 1992, his daily attitude towards Petitioner and his assistant became hostile, intimidating, threatening and abusive.

17. The buyers position held by Petitioner was technically subject to a requirement that the employee live within 30 minutes driving time of the office. Petitioner and his family lived more than 30 minutes away, in Farmington, when he was hired in June of 1988.

18. For the next four years, Petitioner's violation of the residency requirement was overlooked or ignored. However, when Mr. G. returned from Mayo in 1992, he told Petitioner that he would have to either move closer to Rochester or find other employment.

19. Petitioner appealed this enforcement of the residency requirement to the RPU General Manager who upheld Mr. G.'s ultimatum. Because Petitioner's daughter was just finishing her Junior year in high school at Farmington and wished to complete her graduation there, Respondent's General Manager delayed the execution of the policy for 18 months.

20. Thereafter, Mr. G. kept track of how many days and months remained before Petitioner would have to either move or find another job, reminding him of just how long he had left, on a regular basis.

21. Mr. G. also abruptly revised his formal assessment of Petitioner's performance in his personnel file after his return from Mayo, changing Petitioner's hitherto positive ratings to decidedly negative rankings.

22. Mr. G. was particularly threatening and hostile during subsequent private "performance review" sessions. When Petitioner endeavored to document this intimidation and abuse, by bringing a tape recorder to a session, Mr. G. adjourned the meeting and obtained a directive from Respondent's General Manager banning recorders at such sessions.

23. In January of 1994, Mr. G. published a critique defaming Petitioner's professional performance in his "weekly report" to other RPU employees, based on information that Petitioner thought was confidential.

24. Enduring public professional ridicule from Mr. G. was especially demeaning, because Mr. G. was an acknowledged laughingstock among other RPU employees. His propensity to sleep openly on the job was legendary. Other employees joked openly that if Mr. G. went on vacation, Petitioner would be unable to fill his shoes because he couldn't nod off adequately.

25. Petitioner sought medical assistance in coping with this stress and the depression it generated. His psychiatrist prescribed anti-depressant medication to enable him to continue working despite the trauma.

26. Petitioner tried early and often, exhaustively, both verbally and in written memoranda, to notify Mr. G.'s only superior, the RPU General Manager, of his conduct toward Petitioner. The General Manager was fully aware of Mr. G.'s activities and had ample opportunity over a two year period to rectify them.

27. In May of 1994, Petitioner and his assistant jointly agreed to characterize their complaint as "formal" so that the inaction of RPU's General Manager could be reviewed by the personnel department. However, the results of that review were presented in a memorandum from the General Manager to the Petitioner (Exhibit 10-6\6\94) accusing him of "insubordination" and threatening "possible termination of your employment at RPU."

28. Respondent's General Manager concedes that he was aware that Mr. G. was engaging in conduct with the express intent of forcing Petitioner's resignation - he knew particularly of the regular weekly "thee or me" statements. The General Manager did not take any action to end them.

29. Respondent's General Manager also made it clear to Petitioner that he fully comprehended the devastating extent of Mr. G.'s ongoing comprehensive efforts to make Petitioner's continued employment intolerable. He explicitly told Petitioner in August of 1994 that he would have personally resigned long ago, if he were in Petitioner's shoes.

30. On September 30, 1994 Respondent's General Manager first met with Petitioner and his assistant to announce his plan (dated 8/17/94) to reorganize purchasing functions at RPU.

31. His reorganization plan eliminated Petitioner's supervisory responsibilities, making his assistant a co-equal on the organization chart, both reporting to the former chief accountant, whose title was changed to "Director Administration".

32. Petitioner had endured considerable adversity in hopes of moving up on the organization chart, replacing a somnolent Purchasing Manager supervising seven employees who reported directly to the General Manager. He now found his job "reorganized" on a new chart which eliminated his department altogether, while depriving him of his assistant and of any chance for future advancement (unless he could learn to supervise five accountants).

33. Although the reorganization plan also eliminated Mr. G.'s position in the administration division at RPU, Petitioner feared that Mr. G. might be being transferred to some other job where he could continue to jeopardize Petitioner's well being.

34. On Friday, October 7, 1994, Petitioner submitted a letter to Respondent's General Manager which he hoped would bring matters to a head. In it he reviewed the history of Mr. G.'s abuse since 1992 and Mr. G.'s concerted efforts to make it impossible for Petitioner to do his job. Petitioner also lamented the failure to respond to his July memorandum taking exception to Mr. G.'s June performance appraisal and Respondent's silence since then regarding the salary increase Petitioner believed he should have been receiving since his June anniversary date.

35. The letter indicated that the working conditions had become intolerable, causing him emotional problems and affecting his family life. It gave notice that he

would consequently not be coming to work on Monday, October 10, 1994. The letter was ambiguous as to whether Petitioner was quitting for good or just taking one day off.

36. Petitioner left work around 2 o'clock p.m. on October 7, 1994, indicating he would be taking vacation the rest of the afternoon. His letter, marked personal and confidential, was delivered to Respondent's General Manager around 3:45 p.m.

37. On Monday, October 10, 1994, Respondent's General Manager wrote a letter to Petitioner indicating he was construing Petitioner's October 7, 1994 letter as a letter of resignation. He indicated that Petitioner should return his keys and retrieve his belongings, suggesting that his compensation would probably be diminished because he failed to provide "proper notification as required" that he was quitting.

38. When Petitioner received this letter misconstruing his intentions, he took it promptly to his attorney who wrote an expeditious reply to Respondent's General Manager on October 17, 1994. He indicated unequivocally that Petitioner had no intention of resigning voluntarily and that he fully intended to resume his duties as soon as Respondent took some action on his repeatedly expressed concerns.

39. Respondent's General Manager referred this epistle to the City Attorney who replied on October 19, 1994 that RPU would continue to insist that Petitioner had "resigned voluntarily" and considered this matter "closed".

40. Further letters from Petitioner's attorney to the City Attorney on October 31, 1994 and to Respondent's General Manager on December 12, 1994, attempting to clarify Petitioner's intentions and requesting reinstatement, were rejected in another letter from the City Attorney dated December 14, 1994, indicating that Respondent was proceeding to hire a replacement.

41. There was no allegation herein that Petitioner was incompetent or guilty of any misconduct, other than his refusal to report for work on October 10, 1994 without filing a proper request for medical or other leave.

42. Respondent has never given Petitioner notice of his rights under the Veterans' Preference Act to request a hearing on his removal from public employment.

43. Petitioner subsequently filed the Petition considered herein with the Commissioner of Veterans' Affairs who thereafter duly ordered this hearing.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

### CONCLUSIONS

1. The Administrative Law Judge and the Commissioner of Veterans' Affairs have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50 and 197.481.

2. The Notice of Hearing was in all respects proper with regard to form, content, execution and filing. All other substantive and procedural requirements of law and rule have been fulfilled.

3. Any of the foregoing findings of fact which are more properly designated as conclusions are hereby adopted as such.

4. The Petitioner is an honorably discharged veteran entitled to the rights and benefits set forth in Minn. Stat. § 197.46.

5. Respondent and its Public Utilities Division are political subdivisions subject to the requirements of Minn. Stat. § 197.46.

6. Commencing in the fall of 1992, Respondent effectively removed Petitioner from his job by preventing him from performing his responsibilities, without notifying him of his right to request a hearing pursuant to Minn. Stat. § 197.46.

7. Commencing in the fall of 1992, Respondent's Agent Mr. G. constructively discharged Petitioner from his employment by deliberately and overtly rendering his working conditions intolerable, in order to force him to resign, without notifying him of his right to request a hearing pursuant to Minn. Stat. § 197.46.

8. During 1993 and 1994, Respondent's General Manager constructively removed Petitioner from his job by failing to remedy Mr. G.'s actions, despite both actual and constructive knowledge of the full extent of Mr. G.'s sexual and other harassment and the ability to correct it, without notifying Petitioner of his right to request a hearing pursuant to Minn. Stat. § 197.46.

9. Effective October 10, 1994, Respondent removed Petitioner from his job by demoting him without notifying him of his right to request a hearing pursuant to Minn. Stat. § 197.46.

10. Petitioner did not voluntarily resign from his employment on October 7, 1994.

11. Commencing on October 19, 1994 and thereafter, Respondent has removed Petitioner from his employment by reiterating its stance that Petitioner has voluntarily resigned, despite Petitioner's assertions to the contrary.

12. Petitioner was removed from his position at RPU without due notice of charges in writing and a hearing showing incompetence or misconduct, violating his veterans preference rights pursuant to Minn. Stat. § 197.46..

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

#### RECOMMENDATION

IT IS HEREBY RECOMMENDED: that the Commissioner of Veterans' Affairs issue an order requiring the City of Rochester and Rochester Public Utilities to:

(1) Reinstatement the Petitioner to his position as a full-time permanent supervisory buyer with Rochester Public Utilities; and

(2) Award him back pay retroactive to October 7, 1994, with simple interest at 6% per annum (pursuant to Minn. Stat. § 334.01, calculated from the time each paycheck was due) subject to deduction for any unemployment compensation and

earnings from other employment he may have received for that period, within 30 days of the date of this Order; and

(3) Restore any sick leave, vacation pay and other benefits Petitioner would have received if he had continued to be actively employed since October 7, 1994; and

(4) Pay Petitioner nominal damages of \$300.00 within 30 days of the date of this Order; and

(5) Henceforth provide explicit notice to this Petitioner and all other veterans of their veterans preference rights whenever the City intends to demote or otherwise remove them from their jobs.

Dated this 23rd of August, 1995

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HOWARD L. KAIBEL, JR.  
Administrative Law Judge

Reported: Tape Recorded: Not Transcribed

#### NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, the Department of Veterans' Affairs is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

#### MEMORANDUM

##### Background

Ordinarily the law treats employees without written employment contracts as "at will" hirees who are subject to arbitrary dismissal without legal recourse at the whim of the employer. Statutes create "public policy" exceptions limiting employer caprice in narrow areas such as labor relations, discrimination and "whistle blower" laws.

One of the earliest and most common of these limitations is State and Federal Veteran's Preference Proscriptions. Every state in the Union has a Veteran's Preference Statute of one form or another. Minnesota has had one since the Civil War.

The Minnesota statute ensures that veterans in public employment can only be removed from their jobs after written notice of their right to a hearing. At the hearing, the public employer can dismiss a veteran only upon a showing of either incompetence or misconduct. Both sides agree that the Petitioner is a qualified veteran entitled to claim these protections and that Respondent is a Minnesota political subdivision that is required to accord them to him .

##### Voluntary Resignation?

Respondent asks the Commissioner to rule that Petitioner has waived his rights under the statute by voluntarily quitting his job when he submitted his October 7th letter and failed to report for work on Monday, October 10. Petitioner has consistently claimed that he never intended to resign his position or to waive his statutory rights.

Petitioner's letter could arguably be misconstrued as implying that he was resigning. Until Petitioner's attorney clarified his intentions, an employer receiving such a letter could have legitimately sincerely believed that he was quitting.

On the other hand, Petitioner's letter did not say that he was giving notice, quitting, departing, leaving, retiring, saying good-bye, relinquishing his position or use any other language explicitly severing his employment relationship. On the contrary, most of the letter was devoted to aspects of his continuing occupational relationship with the Respondent such as his overdue raise and the tardy reply to his response to his four month old performance review.

In short, the letter is not a clear waiver of Petitioner's rights. However, it is not necessary to reach the question of whether Petitioner's arguably ambiguous letter and other actions should be treated as a legally binding resignation. Even if Petitioner had intended to resign, under all the circumstances leading up to his letter, the law would treat the situation as a "constructive discharge" by the Respondent.

#### "Constructive" Discharge

"Constructive" at law refers to the way someone's actions are "regarded by a rule or policy of law; hence, inferred, implied, made out by legal interpretation" as a result "of construing facts, conduct, circumstances or instruments." Middleton v. Parke, 3 App. D.C. 160. Hence a constructive discharge of an employee can occur, even when that employee has apparently resigned, because of the circumstances leading to that resignation.

Here, there was a concerted effort, over two years, by the employer to oust the Petitioner. First, his supervisor did what he could to remove the Petitioner by preventing him from performing his job. It is well settled that such prevention of performance constitutes discharge or removal. Cleasby v. Leo A. Daly Co., 221 Neb. 254, 376 N.W.2d 312; Roxana Petroleum Company of Oklahoma v. Rice, 109 Okl. 161, 235 P. 502; and Eager Beaver Buick Inc. v. Burt, 503 So. 2d 819.

Second, this supervisor did virtually everything in his power over a period of two years to render Petitioner's working conditions intolerable, with the express intent of getting him to resign. This course of conduct took place with the full knowledge of Respondent's General Manager, who ignored repeated entreaties to take corrective action.

A constructive discharge occurs when an employer deliberately renders working conditions intolerable to force an employee to quit or fails to remedy those conditions despite actual or constructive knowledge and the ability to do so. The leading case on the subject in Minnesota, which is in many ways similar to this one, is Continental Can Company v. Minnesota, 297 N.W.2d 241, 18 A.L.R.4th 312, 22 BNA FEP Cas. 1808,

23 CCH EPD ¶ 30997 (Minn. 1980). The Court held in that case that a constructive discharge occurred when an employee had resigned in order to escape intolerable working conditions caused by concerted harassment from other employees. It held that the employer knew or should have known about this harassment, including “sexually motivated physical contact” but failed “to take timely and appropriate action.” That case in turn cites to Danz v. Jones, 263 N.W.2d 395 at 402, N.4 (Minn. 1978) and Young v. Southwestern Savings and Loan Association 509 F.2d 140, 144 (Fifth Cir. 1975). The basic precepts involved are well established. Southside Public Schools v. Hill, 827 F.2d 270 (CA8, Ark, 1989); EEOC v. Service News Company, 898 F.2d 958 (CA4, NC, 1990) (Express Intent of Forcing Resignation); Harris v. Wal-Mart, 658 F Supp. 62 (E.D. Ark. 1987); Starostka v. Illinois, 666 F Supp. 132 (N.D. ILL. 1987); Meyer v. Foti, 720 F Supp. 1234 (E.D. La. 1989); Sherman v. Prudential-Bache Securities, Inc., 732 F Supp. 541 (E.D. Pa 1989); Beard v. Baum 796 P.2d 1344 (Alaska 1990); Sterling Drug, Inc. v. Oxford, 294 Ark. 239, 743 S.W.2d 380 (Ark. 1988); Zilmer v. Carnation Company, 215 CA.3d 29, 263 Cal. Repr. 422 (Cal. App. 2 Dist. 1989); Mourad v. Automobile Club Insurance Association, 186 Mich. App. 715, 465 N.W.2d 395 (Mich. App. 1991); Carlson v. Crater Lake Lumber Company, 105 Or. App. 314, 804 P.2d 511 (Or. App. 1991); Sanders v. May Broadcasting Company, 214 Neb. 755, 336 N.W.2d 92 (Neb. 1983); Johnson v. Nordstrom-Larpenteur Agency, Inc., 623 F.2d 1279 (C.A. Minn. 1980) cert. denied 101 S. Ct. 622; 30 C.J.S. Employer-Employee Relationship § 53. While an employee may waive his statutory rights by voluntary resigning, it is “axiomatic” that a “coerced resignation” is not a waiver of the employee’s right to notice and a hearing. Burch v. Rame, 676 F Supp. 1218 (S.D. Ga. 1988).

Finally, Respondent’s General Manager developed a “reorganization” plan abolishing Petitioner’s job and demoting him to a substantially inferior position, in a Memorandum dated October 7, 1994 (copying Mr. G.) effective Monday, October 10, 1994. Such demotions are frequently held to be removals or discharges under Veteran’s Preference and Civil Service Laws, giving the employee a right to notice and hearing. In McHale v. Department of Transportation, 100 Pa. Cmwlth. 148, 514 A.2d 290 (Pa. 1986) for example, the Court held in a similar case that even though there was no reduction in pay, the reclassification from supervisor downward to a non-supervisory position was a demotion giving the Petitioner a right to a hearing, even where he had subsequently resigned. Similar results are common in this and other jurisdictions: Kass v. Brown Boveri Corp., 199 N.J. Super. 42, 488 A.2d 242; Richards v. Detroit Free Press, 173 Mich. App. 256, 433 N.W.2d 320 (1988); Norena Hale OAH Docket No. 11-1300-4791-7, September 13, 1990, Judge Nielson; Brock v. Mutual Reports, Inc., 397 A.2d 149; and 30 C.J. S. Employer-Employee Relationship § 52.

It is important in analyzing demotion cases to note the difference in treatment under Veteran’s Preference Statutes. A proposed demotion of an employee which might not be considered a removal or a discharge in an action for monetary damages in a wrongful discharge action, for example, could well be considered a removal for purposes of a Veteran’s Preference Petition, where the remedy is merely a hearing and an opportunity for due process.

The attached report should not be misconstrued as holding that all demotions pursuant to reorganization plans involving veterans must always require a notice and

hearing. As with many of the cases in this area, including those cited above, a proposed "reorganization" involving a demotion must be examined within the context of the surrounding facts and circumstances. In the case of this Petition, with its context of an extended pattern of harassment, intimidation, abuse and other aggravating conduct, it would be clear error for the Commissioner to exclude this demotion from the "removals" the legislature had in mind when it enacted the Veteran's Preference Act.

### AWOL

Respondent asserted at the hearing that Petitioner's failure to report for work on Monday, October 10 without an explanation or a proper request for leave, could properly be treated as a resignation, giving the employer adequate grounds for discharging the employee. The attached report should not be misinterpreted as necessarily disagreeing with this assertion.

The attached recommended Order will not preclude Respondent from proceeding with an attempt to discharge the Petitioner. Respondent can still proceed to discharge the Petitioner after proper written notice and a fair hearing upon stated charges. Perhaps it can convince the hearing board that Petitioner's actions constituted misconduct and that termination is the proper response to that misconduct.

There are states with so called "AWOL" statutes treating unexcused absences by public employees as automatic resignations. Courts have nonetheless construed such statutes as requiring at a minimum that such employees must be given notice of the alleged AWOL and an opportunity to contest the allegations in a hearing. Coleman v. Department of Personnel 52 C.3d 1102, 278 Cal. Repr. 346, 805 P.2d 300 (Cal. 1991). The United States Supreme Court has extended this basic rationale to non-veterans as a matter of constitutional due process. Cleveland Board of Education v. Lowdermill, 470 U.S. 532, 105 S. Ct. 1487, 84 L. Ed. 2d, 494 (1985).

### Ignored Explanation

Respondent persisted doggedly in pretending that this veteran had resigned, even after unambiguous notice from his attorney that he was not resigning and that he merely sought attention to the grievances he was raising. This, in and of itself, was a removal or discharge of Petitioner in violation of the Act.

Assume, for the sake of illustration, that there had been no past history of constructive discharge whatsoever in this case. Assume that Petitioner was attempting to emphasize some new grievance by not reporting for work, without taking proper steps to secure leave without pay, causing Respondent to assume incorrectly that he voluntarily resigned. Once he made it clear that he was not resigning, Respondent would have two choices under the Law: either (1) attempt to discipline and/or discharge him after a proper notice and hearing under the Veteran's Preference Act for being AWOL; or (2) deal with his grievances. Respondent's persistence in relying on Petitioner's fictional departure-of-his-own-volition, by any other name, is naught but a discharge. This was the ruling of the Iowa Court of Appeals in a similar case in 1992. It upheld a determination of the Administrative Law Judge that an employee had not voluntarily quit where the employee left work without the employer's permission because he was seeking to express his complaints regarding working conditions. It

held that the employer's attempt to disregard the employee's expressed intentions and treat this as a voluntary resignation must be legally construed as a "discharge" by the employer. Peck v. Employment Appeal Board, 492 N.W.2d 438. In short, even if there were no past history of constructive discharge here, Respondent's disregard of Petitioner's expressed intentions would be a violation of the Veteran's Preference Act requiring reinstatement and back wages, pending a discharge hearing.

However, there is a lengthy and egregious record here of constructive discharge activity, which the Commissioner cannot totally disregard. Respondent's persistence in ignoring Petitioner's expressed intentions is part of that pattern. This is accordingly an appropriate case for assessing nominal damages.

#### Nominal Damages

Nominal damages are given, not as an equivalent for the wrong, but in recognition of a technical injury and by way of declaring a right or as a basis for taxing costs; and are not the same as damages small in amount. 25 C.J.S. Damages § 8; Danker v. Iowa Power and Light Company, 249 Ia. 327, 86 N.W.2d 835 (1957).

An amount as low as \$100 was once considered an appropriate minimal nominal amount. A review of modern authority discloses that \$300.00 is a more appropriate minimum "in today's world." (Judge Mihalchick in Bruun v. Crow Wing County; OAH 69-3100-5788-2, September 25, 1991.) A review of nominal damages in Veteran's Preference Act cases over the last five years indicates that \$300.00 has become the modern minimum: Sequin v. Duluth, 4-3100-5786-2, October 23, 1991; Grande v. Minneapolis, 4-3100-06579-2, July 31, 1992; and Hansen v. Blue Earth County, 5-3100-6349-2, February 25, 1993.

HLK

