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March 1, 2019

VIA ELECTRONIC FILING

Rosemary Chiavetta , Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: John F. Peoples v. Lyft, Inc.
Docket No. C-2018-3000667

Dear Secretary Chiavetta:

Enclosed please find the Replies of Lyft, Inc. to the Exceptions of John F. Peoples for filing in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

Devin Ryan

DTR/jl
Enclosures

cc: Certificate of Service
Honorable F. Joseph Brady

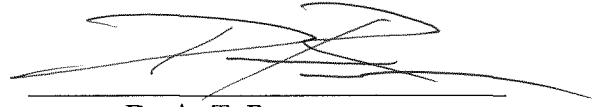
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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Date: March 1, 2018



Devin T. Ryan

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

John F. Peoples,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2018-3000667
	:	
Lyft, Inc.,	:	
	:	
Respondent.	:	

**REPLIES OF LYFT, INC. TO THE
EXCEPTIONS OF JOHN F. PEOPLES**

Lyft, Inc. (“Lyft” or the “Company”), pursuant to 52 Pa. Code § 5.535, hereby respectfully submits these Replies to the Exceptions of John F. Peoples (“Complainant”). In his Exceptions, the Complainant has disputed Administrative Law Judge F. Joseph Brady’s (“ALJ”) Initial Decision (“ID”) dismissing his Formal Complaint.

As the ALJ correctly found, the record demonstrates that the Complainant was deactivated from Lyft’s platform due to the Complainant’s rude, harassing, and racist comments toward drivers, which is a violation of the Company’s Terms of Service. Indeed, at the evidentiary hearing, the Complainant admitted to his prior discriminatory behavior, and in fact made more insensitive and derogatory comments on the record about “foreign drivers,” including people from India, the Middle East, and Africa.

For the reasons explained below, Lyft respectfully requests that the Pennsylvania Public Utility Commission (“Commission”) deny the Complainant’s Exceptions and adopt the ALJ’s well-reasoned ID without modification.

I. REPLIES TO EXCEPTIONS

A. REPLY TO EXCEPTION NO. 1 – THE ALJ CORRECTLY FOUND THAT THE COMPLAINANT ADMITTED TO HIS RACIST COMMENTS AND BEHAVIOR

The Complainant first contests Finding of Fact No. 14 and argues that the ALJ erred in finding that the Complainant admitted to the racist behavior alleged in the Company's several warnings issued to him. (Complainant's Exceptions at 1-2) According to the Complainant, he believed drivers reported him for making racist comments in their ride reviews after he had asked them their thoughts about "foreign drivers." (Complainant's Exceptions at 1-2) Further, the Complainant argues that his admissions on the record about the Company's warnings and his acknowledgement thereof cannot form the basis of a finding of fact, because the Company's warnings were not admitted into the record. (Complainant's Exceptions at 2) Neither of these arguments have merit.

The record shows that the Complainant admitted to engaging in the alleged racist behavior, receiving Lyft's warnings, and apologizing for his actions. (Tr. 54) Specifically, at the evidentiary hearing, the ALJ noted how Lyft Exhibit 2 stated that the Company contacted the Complainant "several times and at least three times [the Complainant] responded in acknowledging the warning and issuing an apology." (Tr. 54) The Complainant then admitted that he had engaged in the alleged racist behavior, received the warnings, and issued an apology. (Tr. 54) In fact, the Complainant does not contest the ALJ's Findings of Fact Nos. 11 through 13, which state that: (1) "Lyft received one-star and two-star reviews from its drivers alleging the Complainant made racist comments on September 15, 2016, February 19, 2017, June 17, 2017, June 26, 2017, July 1, 2017, and July 29, 2017"; (2) "[o]n September 16, 2016, March 17, 2017, and June 28, 2017, Lyft sent warning emails to the Complainant regarding his behavior"; and (3) "[t]he Complainant responded to each warning email and apologized." (ID at 5)

Moreover, the Complainant repeatedly made insensitive and derogatory comments about “foreign drivers,” including people from India, the Middle East, and Africa, at the evidentiary hearing. (Tr. 9, 11, 13, 15) For example, he testified:

Well a lot of times they don’t know where they are going and I do and some of them don’t speak English. I had it today in the cab. **The guy is an Indian and he didn’t speak English** and he took me to the wrong place and that goes on all the time. (Tr. 9) (emphasis added)

All I can tell you is that what I notice is that **the foreign drivers are just interested in making money and some of them don’t understand but a lot of them don’t care.** (Tr. 11) (emphasis added)

They just can’t wait to get you out of the car and they are not too helpful. The other day I had one and **I think he was from Africa.** (Tr. 11) (emphasis added)

Anyway, I get in and **I have so much trouble with these foreign drivers** and I would say to the Americans, “do you guys have trouble with the foreign drivers because they drive me nuts.” I said **“they don’t understand; they pull away and they whine.”** (Tr. 13) (emphasis added)

Amongst other things, **the [foreign drivers] proposition the women.** That’s one of the things that they do but the Americans don’t do it. (Tr. 13) (emphasis added)

I haven’t had much trouble with the Americans. **It’s the middle Eastern people – the Africans. They give me a hard time. They just don’t care.** (Tr 15) (emphasis added)

Therefore, even at the evidentiary hearing, the Complainant demonstrated his racist and discriminatory opinions of “foreign drivers.”

Finally, the Commission should soundly reject the Complainant’s argument that his admission to engaging in the racist behavior, and his acknowledgement that he had received warnings about his behavior from Lyft, cannot support a finding of fact because the actual warning emails he received were not admitted into evidence. It is well-established that party

admissions can constitute substantial evidence to support findings of fact. *See Sargent v. Unemployment Comp. Bd. of Review*, 630 A.2d 534, 538 (Pa. Cmwlth. 1993). Here, the Complainant admitted at the evidentiary hearing that he engaged in the racist behavior, received the Company's warnings, and issued an apology. (Tr. 54) Thus, the ALJ properly relied on the Complainant's admission in Finding of Fact No. 14.

For these reasons, the Complainant's Exception No. 1 should be rejected.

B. REPLY TO EXCEPTION NO. 2 – THE ALJ PROPERLY FOUND THAT THE COMPLAINANT, NOT LYFT, ENGAGED IN DISCRIMINATION

The Complainant avers that the ALJ erred in finding that the Complainant, not Lyft, is the one who engaged in discrimination. (Complainant's Exceptions at 2-3) The Complainant alleges that his testimony about "foreign drivers" at the hearing "reflects [his] difficulty using Lyft's services when the Lyft driver cannot speak English." (Complainant's Exceptions at 2) According to him, "he is not discriminating by requesting English-speaking drivers"; "he is simply requesting an accommodation for his disability." (Complainant's Exceptions at 3) These arguments completely lack merit.

The Complainant admitted to his previous racist behavior, and at the evidentiary hearing he made several racist and discriminatory comments about "foreign drivers," including people from India, the Middle East, and Africa. Certainly, the Complainant's comments do not demonstrate a "difficulty using Lyft's services when the Lyft driver cannot speak English" (Complainant's Exceptions at 2), particularly when he stated, on the record, that "foreign drivers are just interested in making money," that foreign drivers "proposition the women," and that "middle Eastern people" and the "Africans" give him "a hard time." (Tr. 11, 13, 15)

In addition, the Complainant's requested "accommodation," *i.e.*, that Lyft only send him English speaking drivers if he is allowed back onto the Company's platform, is discriminatory.

Effectively, the Complainant demands that Lyft must discriminate against its drivers in order to accommodate his own prejudices. Such a request is obviously not in the public interest and further reveals the Complainant's discriminatory views.

Based on the foregoing, the Complainant's Exceptions No. 2 should be denied.

C. REPLY TO EXCEPTION NO. 3 – THE ALJ CORRECTLY CONCLUDED THAT THE COMPLAINANT FAILED TO MEET HIS BURDEN OF PROOF THAT LYFT DISCRIMINATED AGAINST HIM WHEN IT DEACTIVATED HIM FROM THE PLATFORM

The Complainant disputes the ALJ's conclusion of law that the Complainant failed to meet his burden of proof that the Company discriminated against him when it deactivated him from its platform. (Complainant's Exceptions at 3-5) As alleged support, the Complainant points to his general allegations that non-English speaking drivers would cancel on him or not answer the phone when he called. (Complainant's Exceptions at 3-4) Further, the Complainant observes that Lyft's warnings were sent to the Complainant one to 11 days after each report of racist and harassing behavior and that he was permanently removed from the platform about a month after the report of racist behavior in July 2017. (Complainant's Exceptions at 4-5) The Complainant claims that these facts show it was "a deactivation based on discrimination." (Complainant's Exceptions at 5) The Complainant's arguments completely lack merit.

The ALJ correctly held that the Complainant failed to meet his burden of proof that the Company discriminated against him based on his disability. (ID at 11) Overwhelming evidence, including the Complainant's own admission and testimony, establishes that the Complainant engaged in repeated racist behavior. (ID at 8-10) These are the actions that led to the Company issuing several warnings and, ultimately, deactivating the Complainant from the Lyft platform. (ID at 8-10) Indeed, as explained by Lyft witness Jessica Taylor, "the Company deactivated Mr.

Peoples because of numerous allegations of racist and rude remarks including the use of the N word,” not because he is blind. (Tr. 52)

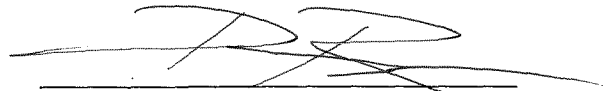
Furthermore, the Complainant’s argument about the time between the reports of racist and harassing behavior and the Company’s adverse actions is fully rebutted by undisputed record evidence. Lyft witness Taylor explained that “there was a lag between when a review was left and when the TNS agents were able to respond to it.” (Tr. 53) Additionally, before a person is permanently deactivated from the platform, the Company’s personnel have to perform a further review, which is why there is “a little bit of a gap” between the final report in July 2017 and the Complainant’s removal from the platform. (Tr. 53-54)

For these reasons, the Complainant’s Exception No. 3 should be rejected.

II. CONCLUSION

WHEREFORE, for all the foregoing reasons, as well as those more fully explained in the Initial Decision of Administrative Law Judge F. Joseph Brady, Lyft, Inc. respectfully requests that the Pennsylvania Public Utility Commission: (1) deny the Exceptions filed by John F. Peoples; (2) adopt the Initial Decision without modification; and (3) dismiss the Formal Complaint at Docket No. C-2018-3000667 with prejudice.

Respectfully submitted,



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Dated: March 1, 2019

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