

DUTY TO MITIGATE WAGE LOSS/DAMAGES

A Complainant who claims that they have suffered or will suffer a loss of wages due to an alleged discriminatory act of a Respondent, has a duty to “mitigate” that wage loss by reasonably seeking and accepting available, comparable employment elsewhere and reasonably seeking and accepting available unemployment compensation benefits. Monies received from such sources are deducted from wage loss amounts recoverable from the loss of wages. If it is proven that a Complainant has not met this duty to mitigate the wage loss, the Respondent may not be held liable for the wage loss.

You need to retain copies of all applications for employment and unemployment compensation benefits you applied for, check stubs, or other forms and receipts showing all such monies received, lists of other information as to what you did to find other work, information about when you were and were not available for work due to illness, personal emergency, vacation trips, return to school, etc.

Payments under social programs (such as social security benefits, welfare benefits, food stamps and low income energy assistance grants) are not deducted from a wage loss. However, receipt of certain governmental benefits (such as social security disability), may be relevant, may be relevant to the issue of mitigation in that qualification for such benefits could infer a person was disabled and unable to work.

As to damages for pain, suffering, humiliation and mental anguish caused by discrimination, a similar duty to mitigate those damages may exist, which may require a Complainant to reasonably seek medical or other assistance to minimize the impact upon them.

If you do not understand what your responsibilities are in this regard, the Commission’s staff will give you further general information on this topic, or you may wish to contact a private attorney for specific advice as to what actions you must take.

Please acknowledge that you have received and read the above and are aware you have a duty to mitigate wage losses and damages potentially caused by a Respondent’s alleged discriminatory act (s).

Complainant

Date

PLEASE TYPE OR SIGN YOUR NAME AND RETURN THIS FORM WITH YOUR FORMAL COMPLAINT AND AUTHORIZATION RELEASE FORM.