



**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE**

In the Matter of:

ZAJRADHARA, ZAJI O.,

Complainant,

v.

NIPPON GENERAL TRADING
CORPORATION, DBA COUNTRY HOUSE
RESTAURANT,

Respondent.

Labor Case No. 17-018

**ADMINISTRATIVE
ORDER**

The Respondent has moved the Hearing Office for an Order dismissing this labor complaint. Respondent relies on the fact that Complainant has filed a Complaint that is false on its face and has furnished a resume that contains false information. In addition, Respondent alleges that Complainant was entertained with an interview for the position in which he failed the test designed to determine whether or not he possessed the requisite skills for the position.

The Labor Complaint bears the filing stamp of the Department of Labor dated June 2, 2017. The Complaint claims that an application for a position advertised by Nippon General Trading Corporation (hereinafter NGT) was applied for by Complainant on March 23, 2017 and that as of June 2, 2017 no communication had been received from NGT.

Both from the verified motion and the Complainant's Response in Opposition it is without contradiction that the content of the letter of Complaint is false. In several parts of the pleadings Complainant discusses events that occurred on or about April 23 when he was examined for the position by the Respondent. A written exhibit sent from the Complainant to the Respondent and making reference to the April interview/ examination is also part of the record. The Response filed by Complainant offers no clear explanation to the allegation that the complaint is false on its face. One can only guess that the misstatement of facts was being addressed by paragraph 1. of his Response which reads:

The complainant simply made mistakes on the dates and or times of the filing, which shouldn't be misunderstood as overt false statements nor perjurious statements.

While it is agreed that an Administrative Tribunal should show patience in adjudicating the claims of laymen it is beyond the call of duty to require the Hearing Officer to have to guess at the intention of the above statement and to what allegation in the Respondent's motion to apply it. If it is intended to explain the factual misrepresentation in the original Complaint, it falls far short of doing that.

Employment applications often request a list of past experience and personal references to assist the prospective employer in evaluating the skills and the character of the applicant. The verified Motion to Dismiss alleges that an officer of the NGT attempted to check two of the locations claimed to be places of past employment of Complainant in Japan. Both locations raised doubt as to the accuracy of Complaint's statement that they had been places of employment. Again, the Response did not give an accurate explanation to the assertion of the claim by the Respondent that these work places did not exist. A prospective employer is within his rights to require references and an employment history from a job applicant. It is a time honored practice. A discovery of falsification of references or misstatement of employment justifies a lack of confidence in the applicant to the point of rejection.


Having found for the Respondent on the two assertions discussed above I find it unnecessary to consider the bartender's test and other matters brought up in the Motion.

After consideration of the request for attorneys' fees it was decided to give weight to the earlier stated practice of giving leeway to lay parties in overcoming disadvantages that they may suffer. The request for attorneys' fees is thereby denied.

The Department being fully advised and good cause having been shown, IT IS HEREBY ORDERED:

1. That the Motion to Dismiss, brought by the Respondent NGT Corporation, is granted and that Labor Case 17-018 is dismissed;
2. Any person or party aggrieved by this Order may appeal, in writing, to the Secretary of Labor within fifteen (15) days of the date of the issuance of this Order.

DATED, March 19, 2019


Herbert D. Soll
Hearing Officer