Isabela Perdomo,
Petitioner,

v.

Corporate Turnaround,
Respondent.

STATE OF NEW JERSEY
DEPARTMENT OF LABOR
AND WORKFORCE DEVELOPMENT

FINAL ADMINISTRATIVE ACTION
OF THE
COMMISSIONER

OAL DKT. NO LID 14462-18

Issued: December 5, 2019

Petitioner, Isabela Perdomo, filed a complaint with the Department of Labor and Workforce Development on August 23, 2019, alleging that respondent, Corporate Turnaround, discriminated against her with regard to her employment in retaliation for her having filed a workers' compensation claim in violation of N.J.S.A. 34:15-39.1. Specifically, petitioner alleged that respondent terminated her employment as a receptionist because she had filed a workers' compensation claim after seeking medical treatment for neck pain sustained while holding the telephone receiver at work. The matter was transferred to the Office of Administrative Law (OAL) for determination as a contested case, pursuant to N.J.S.A. 52:14F-1 et seq. Following a hearing, Administrative Law Judge Joann LaSala Candido (ALJ) found that respondent had terminated petitioner's employment, not because she had filed a workers' compensation claim, but rather, because of her "...repeated failure to follow direction not to leave the reception desk unattended without obtaining coverage, failure to arrive to work on time and failure to wear the required headgear while at the reception desk." Consequently, the ALJ issued an initial decision recommending that the petitioner's discrimination complaint be dismissed. No exceptions to the initial decision were filed.

While an agency head need not defer automatically to the findings of an Administrative Law Judge (ALJ), one cannot ignore the ALJ's abundantly supported conclusions. P.F. v. N.J. Division of Disability, 139 N.J. 522, 530 (1995). Indeed, due deference must be afforded to the opportunity of the trier of fact to observe the parties

and the witnesses whom present on their respective behalves. See, e.g., Matter of Tenure of Tyler, 236 N.J. Super. 478, 485 (App.Div. 1989). In the instant matter, the ALJ found that the petitioner did not meet her initial burden of establishing a *prima facie* case of retaliatory discharge based on her filing a workers' compensation claim. Therefore, as previously noted, the ALJ issued an initial decision recommending that the petitioner's discrimination complaint be dismissed.

Upon *de novo* review of the record, and after consideration of the ALJ's initial decision, I hereby accept and adopt the findings of fact and conclusions contained in the ALJ's initial decision and the recommendation that the petitioner's complaint of discrimination be dismissed.

ORDER

Therefore, it is ordered that the discrimination complaint of Isabela Perdomo be dismissed.

This is the final administrative decision in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
COMMISSIONER OF LABOR AND WORKFORCE DEVELOPMENT

Robert Asaro-Angelo, Commissioner
Department of Labor and Workforce Development

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