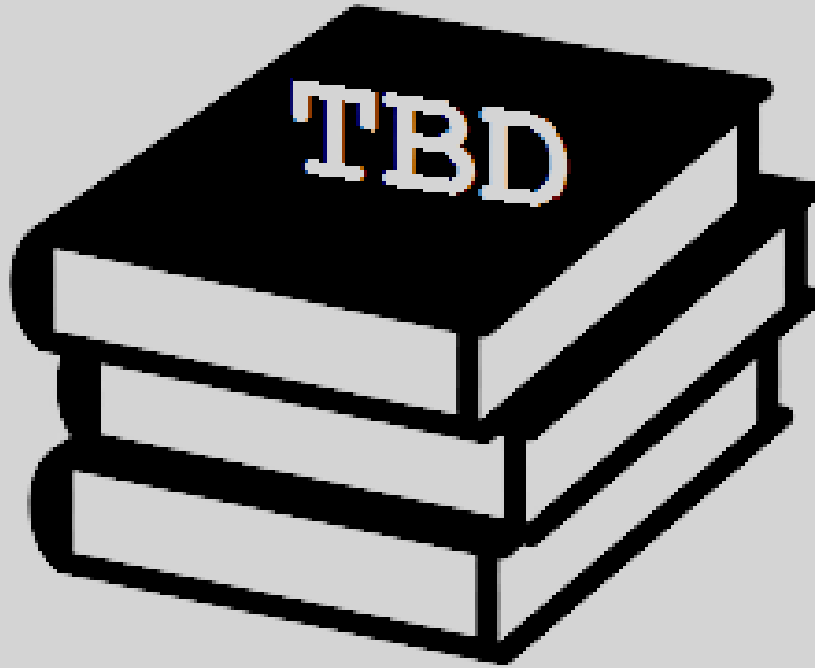


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STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

HARRIET E. HARRIS,

Petitioner,

vs.

Case No. 16-2733

G.G. AND W., LLC,

Respondent.

_____ /

RECOMMENDED ORDER

A final hearing was conducted in this case on July 26, 2016, in Pensacola, Florida, before James H. Peterson, III, Administrative Law Judge with the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Harriet E. Harris, pro se
3824 Paul Street
Douglasville, Georgia 30135

For Respondent: Gary S. Crisp, pro se
G.G. & W, LLC
3607 Andrew Avenue
Pensacola, Florida 32505

STATEMENT OF THE ISSUE

Whether G.G. & W., LLC (Respondent) unlawfully engaged in discriminatory housing practices against Harriet E. Harris (Petitioner) on the basis of Petitioner's race.

PRELIMINARY STATEMENT

On January 28, 2016, Petitioner filed a Housing Discrimination Complaint (Complaint) with the Florida Commission on Human Relations (Commission or FCHR) alleging that Respondent violated "804a or f, and 804b or f of Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988" by subjecting Petitioner to discriminatory terms and conditions and refusing to rent to her in a discriminatory manner based on Petitioner's race. Petitioner's Complaint was submitted on a typed form entitled "Housing Discrimination Complaint" signed by Petitioner on January 23, 2016.

Following an investigation, the Commission issued a preliminary determination (Determination) dated April 1, 2016, finding that the Complaint "was untimely and the complaint is dismissed." On April 6, 2016, the Commission mailed Petitioner a Notice of Determination (Notice) on the Complaint noting that the Commission "has completed its investigation of this complaint and finds that it does not have jurisdiction over it." The Notice referenced Florida Administrative Code Rule 60Y-8.001 and Florida Administration Code chapter 60Y-4, and advised Petitioner of her right to file a Petition for Relief for an administrative proceeding on her Complaint within 30 days from the date of service of the Notice. Petitioner timely filed a

Petition for Relief with the Commission on the Commission's form reiterating the allegations of her Complaint.

On May 9, 2016, the Commission filed a Transmittal of Petition with the Division of Administrative Hearings (DOAH) for assignment of an administrative law judge to conduct an administrative hearing on Petitioner's Petition for Relief.

At the administrative hearing held on July 26, 2016, Petitioner presented the testimony of one witness and testified on her own behalf. Petitioner offered no exhibits.

The manager of Respondent's mobile home park, Gary S. Crisp, offered testimony in response to Petitioner's allegations. Respondent did not offer any exhibits.

The proceedings were recorded but no transcript was ordered. The parties were given 30 days from the date of the hearing to file their proposed recommended orders. Petitioner filed a Proposed Recommended Order on September 9, 2016. Respondent did not file a proposed recommended order. The cover letter to Petitioner's Proposed Recommended Order explained that her Proposed Recommended Order was initially filed in the wrong place. Although untimely, Petitioner's Proposed Recommended Order has been considered in preparing this Recommended Order.

FINDINGS OF FACT

1. Petitioner is an African American female.

2. Petitioner's Complaint is summarized in paragraph 7 of the typed Housing Discrimination Complaint form as follows:

Complainant Harriet Harris identifies as African American/Black. Therefore, Complainant belongs to a class of persons whom the Fair Housing Act ("the Act") protects from unlawful discrimination by virtue of race. The subject property is a single family home within "99 Oaks Mobile Home Park," located at 8521 Fowler Avenue, Lot 18, Pensacola FL 32534; owned by Respondent G, G, . & W, LLC. Complainant identified Respondent Chris Garret as the property manager associated with the subject property.

Complainant alleged that she resided with Witness Rickey Wilder at 99 Oaks Mobile Home Park, which is owned and managed by Respondents. Complainant alleged that Respondent Garret told witness Wilder that, "he (Respondent) could not believe that he (Wilder) was living with a Black woman." Complainant alleged that she later made arrangements with Respondents to rent a vacant mobile home at another location within the community, but was later told that the subject property had already been rented. Complainant alleged that she heard Respondent Garret telling another resident in the community that, "he (Respondent) would not rent to a Black woman, because they do not pay their rent." Complainant explained that based on Respondent Garret's statements, she believes that Respondents denied her the opportunity to rent because of her race. As such, Complainant believes that Respondents subjected her to discriminatory terms and conditions and refused to rent to her in a discriminatory manner based on race.

3. At the final hearing, it was revealed that the person identified as "Chris Garret" in the Complaint is actually

Gary S. Crisp, who is the manager of Respondent's mobile home park and who appeared at the final hearing on behalf of Respondent. Respondent's mobile home park is known as "99 Oaks Mobile Home Park."

4. Petitioner's testimony at the final hearing was somewhat consistent with the allegations of her Complaint as summarized above. Petitioner's testimony, however, was not credible. While the one witness called by Petitioner verified that Petitioner had a telephone conversation with Mr. Crisp in June of 2014, that testimony did not bolster the credibility of Petitioner's allegations.

5. Mr. Crisp's testimony explained that his contact with Petitioner was limited to a few occasions in 2014. He further testified that he did not refuse to rent a mobile home to Petitioner and that he did not otherwise discriminate against Petitioner. Mr. Crisp's testimony was credible.

6. There was no credible evidence presented that would support even a prima facie case against Respondent for engaging in a discriminatory housing practice.

7. Petitioner lived with Rickey Wilder at 99 Oaks Mobile Home Park during the summer and early fall of 2014. During that time, Mr. Wilder was living in one of Respondent's mobile homes as a benefit of Mr. Wilder's employment with one of Respondent's other companies.

8. In October 2014, Mr. Wilder was evicted from 99 Oaks Mobile Home Park. There has been no contact between Petitioner and Respondent, or between Petitioner and Mr. Crisp, since that time.

9. Petitioner did not file her Complaint until more than one year from any alleged discriminatory housing practice. Therefore, Petitioner's Complaint is untimely. This finding is consistent with the Commission's Determination dated April 1, 2016, where, in the second paragraph under section III, the Commission found:

The actual most recent date of harm was August 15, 2014, when Complainant was allegedly told that the unit was no longer available; this was confirmed in an interview with Complainant on March 30, 2016. Complainant did not sign her complaint until January 23, 2016 and it was not received by the Florida Commission on Human Relations until January 28, 2016. In order for a complaint to be timely filed, it must be filed within one year of the last date of harm.

CONCLUSIONS OF LAW

10. The Division of Administrative Hearings has jurisdiction over the parties and subject matter of this proceeding. See §§ 120.569, 120.57(1), and 760.20-760.37, Fla. Stat.; see also Fla. Admin. Code R. 60Y-4.016 and 60Y-8.001.^{1/}

11. Although Petitioner's allegations are couched in terms of federal law, the Notice of the Commission's Determination

advising Petitioner of her right to file a petition for relief referenced the rule 60Y-8.001 and chapter 60Y-4 and invoked the undersigned's jurisdiction for an administrative hearing under the Florida's Fair Housing Act (the Act).

12. The Act is codified in sections 760.20 through 760.37, Florida Statutes.

13. Under the Act, once the Commission's authority is properly invoked, following an administrative hearing, the Commission has authority to make findings as to whether a "discriminatory housing practice" has occurred. If such a finding is made, the Act further authorizes the Commission to issue an order "prohibiting the practice" and providing "affirmative relief from the effects of the practice, including quantifiable damages and reasonable attorney's fees and costs." § 760.35(3)(b), Fla. Stat.

14. Petitioner, however, failed to timely invoke the Commission's jurisdiction. The evidence demonstrated that Petitioner did not file her Complaint with the Commission until over a year after the alleged housing discrimination. Section 760.34(2) provides:

A complaint under subsection (1) must be filed within 1 year after the alleged discriminatory housing practice occurred. The complaint must be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. A complaint may be reasonably and

fairly amended at any time. A respondent may file an answer to the complaint against him or her and, with the leave of the commission, which shall be granted whenever it would be reasonable and fair to do so, may amend his or her answer at any time. Both complaint and answer shall be verified.

15. Because Petitioner failed to file her Complaint within one year after the alleged housing discrimination practices occurred, Petitioner's Complaint, as previously suggested in the Commission's Determination, should be dismissed.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Florida Commission on Human Relations enter a final order dismissing the Complaint and Petition for Relief.

DONE AND ENTERED the 14th day of October, 2016, in Tallahassee, Leon County, Florida.



JAMES H. PETERSON, III
Administrative Law Judge
Division of Administrative Hearings
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Tallahassee, Florida 32399-3060
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Filed with the Clerk of the
Division of Administrative Hearings
this 14th day of October, 2016.

ENDNOTE

^{1/} Unless otherwise indicated by context, citations to all statutes, rules, and regulations are to current versions, the substantive provisions of which have not changed since the pertinent facts in this case.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.

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