

10-27-00

AT

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED
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DIVISION OF
ADMINISTRATIVE
HEARINGS

WILLIAM SAMUEL LEE,

EEOC Case No. 15D97002

Petitioner,

FCHR Case No. 97-S196

v.

DOAH Case No. 00-1792 DC

COMPASS RETAIL, INC.,

FCHR Order No. 01-009

Respondent.

FINAL ORDER AWARDING AFFIRMATIVE RELIEF
FROM AN UNLAWFUL EMPLOYMENT PRACTICE

Preliminary Matters

Petitioner William Samuel Lee filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (1995), alleging that Respondent Compass Retail, Inc., committed an unlawful employment practice on the basis of Petitioner's handicap (back injury) when it terminated him from his position.

The allegations set forth in the complaint were investigated, and, on February 21, 2000, the Executive Director issued his determination finding that there was no reasonable cause to believe that an unlawful employment practice had occurred.

Petitioner filed a Petition for Relief from an Unlawful Employment Practice and the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

An evidentiary hearing was held on September 13, 2000, in Tallahassee, Florida, before Administrative Law Judge Diane Cleavinger.

Judge Cleavinger issued a Recommended Order on October 27, 2000, recommending that the Commission enter a final order finding that Respondent unlawfully discriminated against Petitioner on the basis of his handicap.

The Commission panel designated below considered the record of this matter and determined the action to be taken on the Recommended Order.

Findings of Fact

A transcript of the proceeding before the Administrative Law Judge was not filed with the Commission.

We adopt the Administrative Law Judge's findings of fact.

Conclusions of Law

We find the Administrative Law Judge's application of the law to the facts to result in a correct disposition of the matter.

We adopt the Administrative Law Judge's conclusions of law.

Exceptions

Neither party filed exceptions to the Administrative Law Judge's recommended order.

Affirmative Relief

Through our adoption of the Administrative Law Judge's findings of fact and conclusions of law, as set out above, we find that an unlawful employment practice has occurred in this matter and have adopted the Administrative Law Judge's recommendations for the remedy of the unlawful employment practice.

Respondent is hereby ORDERED:

- (1) to cease and desist from discriminating further in the manner it has been found to have unlawfully discriminated against Petitioner;
- (2) to remit back pay to Petitioner in the amount of \$ 11,770.00; and
- (3) to pay Petitioner statutorily established interest rates on the amount awarded Petitioner in (2), above.

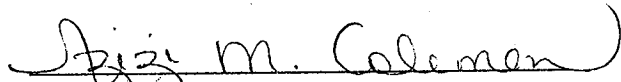
The Commission reserves jurisdiction over the determination of precise amounts of interest owed Petitioner, as well as over the amounts of attorney's fees and costs owed Petitioner should they be incurred by Petitioner in the enforcement of this Order.

The parties have the right to seek judicial review of this Order. The Commission and the appropriate District Court of Appeal must receive notice of appeal within 30 days of the date this Order is filed with the Clerk of the Commission. Explanation of the right to appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED this 8 day of February, 2001.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Sharon Ofuani, Panel Chairperson;
Commissioner Clarethea Brooks; and
Commissioner Rita Craig

Filed this 8 day of February, 2001,
in Tallahassee, Florida.



Azizi Coleman, Acting Clerk
Commission on Human Relations
325 John Knox Rd., Bldg. F, Suite 240
Tallahassee, FL 32303-4149
(850) 488-7082

NOTICE TO COMPLAINANT / PETITIONER

As your complaint was filed under Title VII of the Civil Rights Act of 1964, which is enforced by the U.S. Equal Employment Opportunity Commission (EEOC), you have the right to request EEOC to review this Commission's final agency action. To secure a "substantial weight review" by EEOC, you must request it in writing within 15 days of your receipt of this Order. Send your request to Miami District Office (EEOC), One Biscayne Tower, 2 South Biscayne Blvd., Suite 2700, 27th Floor, Miami, FL 33131.

Copies furnished to:

William Samuel Lee
Post Office Box 224
Midway, FL 32343

Debbie Anderson
Vice President, Human Resources
Compass Retail, Inc.
5775 Peachtree Dunwoody Road, Suite 200-D
Atlanta, GA 30342

Diane Cleavinger, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel