

08-02-00

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

2004 JUN 30 P 2 39
FILED

FELICIA A. ALEXANDER,

EEOC Case No. 15D980795

Petitioner,

FCHR Case No. 98-3266

v.

AT

DOAH Case No. 00-1217

MWC-CWS

DYNAIR SERVICES, INC.,

FCHR Order No. 01-038

Respondent.

FINAL ORDER DISMISSING REQUEST FOR
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE

Preliminary Matters

Petitioner Felicia A. Alexander filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (1997), alleging that Respondent Dynair Services, Inc., committed an unlawful employment practice on the basis of Petitioner's race (Black) by creating a hostile work environment and unfair conditions of employment.

Petitioner requested an administrative hearing, and the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

An evidentiary hearing was held in Sanford, Florida, on May 23, 2000, before Administrative Law Judge Mary Clark.

Judge Clark issued a Recommended Order of dismissal on August 2, 2000.

Pursuant to notice, public deliberations were held on May 29, 2001, by means of Communications Media Technology (namely, telephone) before this panel of Commissioners. The public access point for these telephonic deliberations was the Office of the Florida Commission on Human Relations, 325 John Knox Road, Building F, Suite 240, Tallahassee, Florida, 32303-4149. At these deliberations, the Commission panel determined the action to be taken on the Recommended Order.

Findings of Fact

We find the Administrative Law Judge's findings of fact to be supported by competent substantial evidence.

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

Petitioner filed a document with the Florida Commission on Human Relations, received by the Commission on September 5, 2000, entitled, "Exceptions."

In this document Petitioner takes issue with the facts found by the Administrative Law Judge with regard to whether a hostile work environment existed, and with the credibility. Petitioner apparently feels the Administrative Law Judge gave to the testimony of James Kidd. See Filing.

A Commission panel has stated, "It is well settled that it is the Administrative Law Judge's function 'to consider all of the evidence presented and reach ultimate conclusions of fact based on competent substantial evidence by resolving conflicts, judging the credibility of witnesses and drawing permissible inferences therefrom. If the evidence presented supports two inconsistent findings, it is the Administrative Law Judge's role to decide between them.' Beckton v. Department of Children and Family Services, 21 F.A.L.R. 1735, at 1736 (FCHR 1998), citing Maggio v. Martin Marietta Aerospace, 9 F.A.L.R. 2168, at 2171 (FCHR 1986)." Barr v. Columbia Ocala Regional Medical Center, 22 F.A.L.R. 1729, at 1730 (FCHR 1999).

Further, the Commission's rules require that filings be served on the other party and that a certificate of this service be provided the Commission at the time of the filing (see, Fla. Admin. Code R. 60Y-4.005).

No such certification exists on Petitioner's "Exceptions," received September 5, 2000. See Filing.

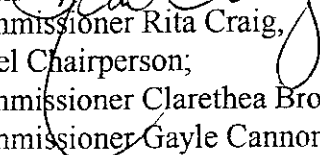
Based on the foregoing, Petitioner's exceptions are rejected.

Dismissal

The Request for Relief and Complaint of Discrimination are DISMISSED with prejudice.

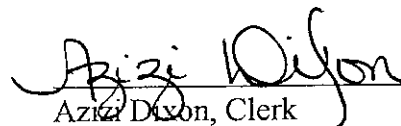
The parties have the right to seek judicial review of this Order. The Commission and the appropriate District Court of Appeal must receive notice of appeal within 30 days of the date this Order is filed with the Clerk of the Commission. Explanation of the right to appeal is found in Section 120.68, Florida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

DONE AND ORDERED this 29 day of May, 2001.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:



Commissioner Rita Craig,
Panel Chairperson;
Commissioner Clarethea Brooks; and
Commissioner Gayle Cannon

Filed this 13 day of June, 2001,
in Tallahassee, Florida.



Azizi Dixon, 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:

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Mary Clark, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel