

11-19-01

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FILED
02 JUN -4 AM 9:48
DIVISION OF ADMINISTRATIVE HEARINGS

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

LAURA J. BAILEY,

EEOC Case No. N/A

Petitioner,

JHC

FCHR Case No. 99-03868

v.

DOAH Case No. 01-2080

CENTENNIAL EMPLOYEE MANAGEMENT
CORPORATION,

FCHR Order No. 02-027

Respondent.

DWD-COS

FINAL ORDER DISMISSING REQUEST FOR
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE

Preliminary Matters

Petitioner Laura J. Bailey 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 Centennial Employee Management Corporation committed an unlawful employment practice on the basis of Petitioner's disability (alleged in the complaint to be pregnancy) when it terminated Petitioner from her position.

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 Blountstown, Florida, on October 23, 2001, before Administrative Law Judge Don W. Davis.

Judge Davis issued a Recommended Order of dismissal on November 19, 2001.

Pursuant to notice, public deliberations were held on April 30, 2002, 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, 2009 Apalachee Parkway, Suite 100, Tallahassee, Florida, 32301. At these deliberations, the Commission panel 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.

We note that this case is somewhat unusual in that it presents allegations of pregnancy-based discrimination within the context of "handicap" or "disability" discrimination. See Recommended Order, Preliminary Statement and Charge of Discrimination. While there is no specific prohibition against discrimination based on pregnancy in the Florida Civil Rights Act of 1992, pregnancy-based discrimination is prohibited by the Florida Civil Rights Act of 1992 within the context of "sex" discrimination. See, e.g., Torres v. Sweet Tomatoes Restaurant, 23 F.A.L.R. 3383 (FCHR 2001).

This quirk of pleading, however, does not impact the outcome of this case, since regardless of the basis of discrimination alleged, either "handicap" or "sex" discrimination, the Administrative Law Judge did conclude that Respondent articulated a legitimate, nondiscriminatory reason for its action and that Petitioner failed to offer any credible evidence that she was terminated from her employment as the result of her pregnancy. See Recommended Order, ¶ 13 and ¶ 14.

Exceptions

Petitioner filed exceptions to the Recommended Order in a document entitled, "Petitioner's Exceptions to Recommended Order."

As indicated, above, the Commission's file does not contain a transcript of the proceeding before the Administrative Law Judge.

The filing of such a transcript is a requirement to the filing of exceptions to a Recommended Order. See, Fla. Admin. Code R. 60Y-4.025(3), and Fla. Admin. Code R. 60Y-4.027(1). In the absence of the filing of such a transcript the Commission has ordered exceptions stricken. See, e.g., Ebeh v. Consumer Credit Counseling Service of the Tampa Bay Area, Inc., 16 F.A.L.R. 2149, at 2150 (FCHR 1994), and Lee v. Emmer Development Corporation, 20 F.A.L.R. 3132, at 3134 (FCHR 1998).

Petitioner's exceptions are hereby stricken.

Dismissal

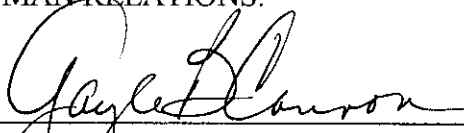
The Request for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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.

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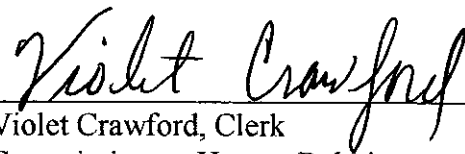
DONE AND ORDERED this 31st day of May, 2002.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:



Commissioner Gayle Cannon,
Panel Chairperson;
Commissioner Aletta Shutes; and
Commissioner Billy Whitefox Stall

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Filed this 31st day of May, 2002,
in Tallahassee, Florida.



Violet Crawford, Clerk
Commission on Human Relations
2009 Apalachee Parkway, Suite 100
Tallahassee, FL 32301
(850) 488-7082

Copies furnished to:

J. Ann Cowles, Esq.
P.O. Box 8
Tallahassee, FL 32302

Edward A. Smith, Esq.
Centennial Employee Management Corporation
400 Perimeter Center Terrace
Suite 650
Atlanta, GA 30346

Don W. Davis, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel