

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

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HUMAN RELATIONS

JANICE WHIPPLE,

HUD Case No. 04-01-0067-8

Petitioner,

FCHR Case No. 21-90006H

v.

DOAH Case No. 01-3445

RENTAL MANAGEMENT COMPANY

FCHR Order No. 02-095

SFD  
Closed

Respondent.

**FINAL ORDER DISMISSING PETITION FOR  
RELIEF FROM A DISCRIMINATORY HOUSING PRACTICE**

This matter is before the Commission for consideration of the Recommended Order of Dismissal dated December 21, 2002, issued in the above-styled matter by Administrative Law Judge Stephen F. Dean.

**Findings of Fact and Conclusions of Law**

Judge Dean's order states that Petitioner failed to appear at a formal hearing that she requested under Section 120.57(1), Florida Statutes. Diligent search and inquiry was made to discover the current whereabouts of Petitioner; however, he could not be located. Respondent moved to dismiss on the grounds that Petitioner, who has the burden of proof and the burden of going forward with the evidence, had voluntarily abandoned his request for any relief at issue in the proceeding by not appearing at the hearing and had, thereby, withdrawn his request.

With regard to the steps necessary for establishing that an unlawful act of housing discrimination has occurred, it has been stated, "The initial burden is upon Petitioner to establish a prima facie case of discrimination. Once Petitioner established a prima facie case, a presumption of unlawful discrimination is created. The burden then shifts to Respondent to show a legitimate, nondiscriminatory reason for its action. If Respondent carries this burden, Petitioner then must prove by a preponderance of the evidence that the reason offered by the Respondent is not its true reason, but only a pretext for discrimination." See conclusions of law adopted by a Commission panel in Spratlin vs. Washington Mutual Bank, d/b/a Great Western. 23 F.A.L.R. 3359, at 3364, 3365 (FCHR 201), citations from the quoted statement omitted.

We adopt the Administrative Law Judge's finding as to the fact that the Petitioner did not wish to pursue the complaint and further conclude the Petitioner has failed to carry his burden of proof.

Exceptions

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

Dismissal

The Request for Relief and Housing Discrimination Complaint 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 4<sup>th</sup> day of December, 2002.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS

Commissioner Roosevelt Paige, Chairperson  
Commissioner Leonie Hermantin  
Commissioner John Corbett

Filed this 4<sup>th</sup> day of December, 2002  
in Tallahassee, Florida.

Violet Crawford  
Violet Crawford, Clerk  
Commission on Human Relations  
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Stephen F. Dean, Administrative Law Judge

Jim Tait, Counsel to the Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 4<sup>th</sup> day of December, 2002.

By: *Violet Crawford*  
Clerk of the Commission  
Florida Commission on Human Relations