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STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

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ADMINISTRATIVE  
HEARINGS

DAVID POWELL,

AT

HUD Case No. 04-01-0806-8

Petitioner,

FCHR Case No. 21-90556E

v.

DOAH Case No. 01-4799

ROBIN FISHER AND PARK PLACE BY  
THE BAY,

FCHR Order No. 03-034

Respondents.

CA-CLOS

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

Preliminary Matters

Petitioner David Powell filed a housing discrimination complaint pursuant to the Fair Housing Act, Sections 760.20 - 760.37, Florida Statutes (1999), alleging that Respondents Robin Fisher and Park Place by the Bay committed a discriminatory housing practice on multiple bases, including race (African-American), religion (Baptist), sex (male), handicap (unspecified) and national origin (unspecified) when they evicted him from his apartment.

The allegations set forth in the complaint were investigated, and, on November 7, 2001, the Commission issued its determination finding that there was no reasonable cause to believe that a discriminatory housing practice occurred.

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

An evidentiary hearing was held in Miami, Florida, on September 24, 2002, before Administrative Law Judge Claude B. Arrington.

Judge Arrington issued a Recommended Order of dismissal, dated October 16, 2002.

Pursuant to notice, public deliberations were held on April 9, 2003, 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 Petition for Relief.

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

Petitioner filed exceptions to the Administrative Law Judge's Recommended Order in two documents dated October 25, 2002, both addressed to the Clerk of the Commission.

As indicated, above, the Commission's file does not contain a transcript of the proceeding on the merits 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), an employment discrimination case, and Lee v. Emmer Development Corporation, 20 F.A.L.R. 3132, at 3134 (FCHR 1998), a housing discrimination case. See, also, Castellanos v. SB Partners Real Estate Corporation and Sentinel Real Estate, Inc., FCHR Order No. 02-009 (FCHR 2002), a housing discrimination case in which Petitioners' exceptions were stricken by the Commission Panel in the absence of a transcript of the proceeding before the Administrative Law Judge.

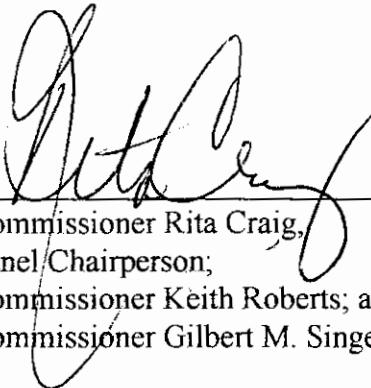
Petitioner's exceptions are hereby stricken.

Dismissal

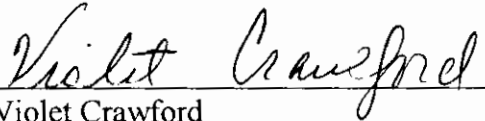
The Petition for Relief and Housing Discrimination Complaint are DISMISSED with prejudice.

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 29<sup>th</sup> day of April, 2003.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

  
\_\_\_\_\_  
Commissioner Rita Craig,  
Panel Chairperson;  
Commissioner Keith Roberts; and  
Commissioner Gilbert M. Singer

Filed this 29<sup>th</sup> day of April, 2003,  
in Tallahassee, Florida.

  
\_\_\_\_\_  
Violet Crawford  
Clerk, Commission on Human Relations  
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Miami, FL 33173

Claude B. Arrington, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 29<sup>th</sup> day of April, 2003.

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