

9-18-03

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

CHRISTINA BRUCE,  
  
Petitioner,

EEOC Case No. 15DA10441  
FCHR Case No. 21-02039

v.

AT

DOAH Case No. 03-1833

CASH COW US CAPITAL

FCHR Order No. 04-11-03

Respondent.

BJS-CWS

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HEARINGS

**FINAL ORDER AWARDING  
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE**

Petitioner, CHRISTINA BRUCE, filed a complaint of discrimination pursuant to Florida Civil Rights Act of 1992, Sections 760.01-760.11, Florida Statutes, alleging that the Respondent, CASH COW US CAPITAL, committed an unlawful employment practice by terminating her due to her race and gender. The allegations set forth in the complaint were investigated and on April 9, 2003, the Executive Director issued his determination that there was no reasonable cause to believe that a discriminatory act occurred. The Petitioner filed a Petition for Relief and was granted a formal evidentiary hearing that was held in Tallahassee, Florida, on August 4, 2003, before Administrative Law Judge Barbara J. Staros.

Judge Staros issued a Recommended Order dated August 26, 2003 which found that the Respondent engaged in unlawful discrimination and recommended an award of \$50.00 in back pay.

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 and Conclusions of Law

The Commission's file contains a no transcript of the proceeding before the Administrative Law Judge. In the absence of a transcript of the proceeding before the Administrative Law Judge, his Recommended Order is the only evidence for the Commission to consider. National Industries, Inc. vs. Commission on Human Relations, et al., 527 So. 2d 894, at 898 (Fla. 5<sup>th</sup> DCA 1988).

With regard to the steps necessary for establishing that an unlawful employment practice 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 Spradlin vs. Washington Mutual Bank, d/b/a Great Western. 23 F.A.L.R. 3359, at 3364, 3365 (FCHR 2001), citations from the quoted statement omitted.

The Administrative Law Judge found that the Petitioner established a prima facie case of discrimination. The Respondent failed to attend the hearing and, therefore, demonstrated no legitimate, non-discriminatory reason for the termination. The ALJ did find from the Petitioner's testimony, however, that she had informed the Respondent that she intended to leave her employment on January 25, 2001, for reasons unrelated to her charge of discrimination. Accordingly, the ALJ found that her unlawful termination on January 24, 2001, resulted in her only losing one day of pay. Since her salary was \$250.00/week, the loss of one day was therefore calculated to be \$50.00.

The ALJ further found that the requested relief for payment or repayment of unemployment compensation claims and to require the Respondent to apologize is beyond the authority of the Division of Administrative Hearings and the Commission.

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

#### Exceptions

Neither party filed any exceptions to the 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 the unlawful discrimination has occurred in this matter and have adopted the ALJ's recommendation for the award of \$50.00 in back pay. In addition, the Commission finds that, although it has no jurisdiction to require an apology, it does have clear jurisdiction to require the Respondent to cease and desist its discriminatory practices.

Respondent is hereby ORDERED:

- (1) to cease and desist from discriminating further in the manner it has been found to have unlawfully discriminated against the Petitioner;
- (2) to remit to Petitioner affirmative relief in the amount of \$50.00 in back pay; and
- (3) to pay Petitioner statutorily established interest rates on the amount awarded Petitioner in (2) above for the period subsequent to January 24, 2001, until said amount, with interest, is paid to Petitioner.

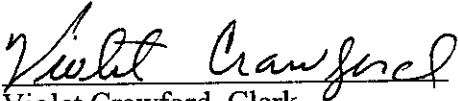
The Commission reserves jurisdiction over the determination of precise amounts of interest owed Petitioner, as well as over the amounts of attorney's fees and costs owed Petitioner should they be incurred by Petitioner in the enforcement of this Order.

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 10th day of March, 2004.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS

Commissioner Donna Elam, Chairperson  
Commissioner John Corbett  
Commissioner Roosevelt Paige

Filed this 10th day of March, 2004,  
in Tallahassee, Florida.

  
Violet Crawford, Clerk  
Commission on Human Relations  
2009 Apalachee Parkway, Suite 100  
Tallahassee, Florida 32301  
(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 the 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, 27<sup>th</sup> Floor, Miami, FL 33131

Copies furnished to:

Christina M. Bruce  
120 White Drive  
Tallahassee, FL 32301

Michelle Smith, Director of Human Resources  
Cash Cow US Capital  
1637 Metropolitan Blvd, Suite C  
Tallahassee, FL 32308

Honorable Barbara J. Staros, Administrative Law Judge (DOAH)  
Jim Tait, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 10th day of March, 2004.

BY:   
Clerk of the Commission