

10-17-03

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CLERK OF COURT

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

MARJORIE R. ROSS,

EEOC Case No. NONE

Petitioner,

FCHR Case No. 97-1176

v.

AT

DOAH Case No. 00-3867

SFD-CWS

DELAND HOUSING AUTHORITY,

FCHR Order No. 04-032

Respondent.

**FINAL ORDER DISMISSING PETITION FOR
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE**

Petitioner, MARJORIE R. ROSS, filed a complaint of discrimination pursuant to Florida Civil Rights Act of 1992, Sections 760.01-760.11, Florida Statutes, alleging that the Respondent, DELAND HOUSING AUTHORITY, committed an unlawful employment practice by failing to promote her and by terminating her due to her race. When the FCHR did not issue a determination within 180 days after she filed her complaint, the Petitioner filed a Petition for Relief. She was granted a formal evidentiary hearing that was held, after several continuances requested by the Petitioner, in Deland, Florida, on August 21, 2003, before Administrative Law Judge Stephen F. Dean.

Judge Dean issued a Recommended Order of Dismissal dated October 17, 2003.

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 does not contain a transcript of the proceeding before the Administrative Law Judge.

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 did establish a prima facie case in the issue of promotion and also of termination; however, the Respondent demonstrated legitimate, non-discriminatory reasons for both not promoting her and for the termination. The

ALJ further found that the Petitioner failed to provide any persuasive evidence that the reasons given were pretextual. In fact, the ALJ specifically found that not only were non-minority employees not treated differently under similar circumstances; but also, that the Respondent terminated the white supervisor as well.

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

Exceptions

Neither party filed any exceptions to the Recommended Order.

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 15th day of April, 2004.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS

Commissioner Rita B. Craig, Chairperson
Commissioner Roosevelt Paige
Commissioner Mario Valle

Filed this 15th day of April, 2004
in Tallahassee, Florida.



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Honorable Stephen F. Dean, 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 15th day of April, 2004.

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