

21-7-04

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

**FILED**  
2004 JUN 29 P 1:41  
DIVISION OF  
ADMINISTRATIVE  
HEARINGS

ANNE M. BURRAGE,

FCHR No. 25-02899

Petitioner,

EEOC No. 15DA300843

vs.

AT

DOAH No. 03-4710

CSH-C605

CHRISTY'S SUNDOWN RESTAURANT, INC.

FCHR Order No. 04-060

Respondent.

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

On May 20, 2003, Petitioner filed a complaint of discrimination pursuant to Florida Civil Rights Act of 1992, Sections 760.01-760.11, Florida Statutes (2001), alleging that the Respondent committed an unlawful employment practice based on her sex, marital status and in retaliation. The allegations set forth in the complaint were investigated and on November 5, 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 given a formal evidentiary hearing in Winter Haven, Florida, on February 20, 2004 before Administrative Law Judge Carolyn S. Holifield.

Judge Holifield issued a Recommended Order of Dismissal dated April 7, 2004.

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**

At the hearing, Petitioner withdrew her claim of sexual harassment. Petitioner on March 26, 2004, additionally filed a letter withdrawing her request for a review of her case, which was deemed by the ALJ to be a notice of voluntary dismissal. Consequently, Judge Holifield recommended that the Commission issue a final order dismissing the Petition for Relief, based on Petitioner's request not to proceed further in this matter.

The Petitioner can dismiss the complaint at any time prior to the Commission taking final action under FCHR Rule 60Y-5.008 (7) which states: "*Voluntary Dismissal. A Petition for Relief may be dismissed by the Petitioner without order of the hearing officer, Panel of Commissioners or Commission (i) by serving or during hearing, by stating on the record, a notice of dismissal at any time before Commission takes final action or (ii) by filing a stipulation of dismissal signed by all parties who have appeared in the action. This dismissal operates with prejudice with respect to the Petitioner's Chapter 760, Florida Statutes, administrative remedies and constitutes final agency action.*"

We adopt the Administrative Law Judge's finding as to the Petitioner's desire not to proceed further, and adopt the Administrative Law Judge's recommended disposition of the matter.

Exceptions

Neither party filed exceptions to the Administrative Law Judge's Recommended Order of Dismissal.

Dismissal

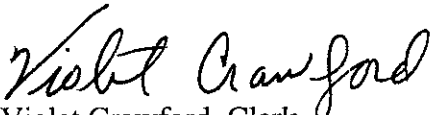
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 of appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED this 25<sup>th</sup> day of June, 2004.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Rita Craig, Panel Chairperson  
Commissioner Roosevelt Paige  
Commissioner Keith Roberts

Filed this 25<sup>th</sup> day of June, 2004,  
in Tallahassee, Florida.

  
Violet Crawford, Clerk  
Commission on Human Relations  
2009 Apalachee Parkway, Suite 100  
Tallahassee, FL 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 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, 27th Floor, Miami, FL 33131.

Copies furnished to:

Anne M. Burrage  
1119 5<sup>th</sup> Street Southwest  
Winter Haven, Florida 33880

Christy's Sundown Restaurant, Inc.  
c/o Michael H. Bowling, Esquire  
Post Office Box 3669  
Orlando, Florida 32802

Carolyn S. Holifield, 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 25<sup>th</sup> day of June, 2004.

By:   
Clerk of the Commission  
Florida Commission on Human Relations