

4-29-04

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED
2004 JUN 29 P 1:42
DIVISION OF
ADMINISTRATIVE
HEARINGS

STEPHANIE WALKER

EEOC Case No. NONE

Petitioner,

AT

FCHR Case No. 23-01718

v.

DOAH Case No. 04-0724

JDF CWS

BENNETT AUTO SUPPLY, INC.

FCHR Order No. 04-067

Respondent.

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

Petitioner, STEPHANIE WALKER, filed a complaint of discrimination on March 21, 2003, pursuant to Florida Civil Rights Act of 1992, Sections 760.01-760.11, Florida Statutes (2001), alleging that the Respondent BENNETT AUTO SUPPLY, INC., committed an unlawful employment practice by based on her race (black). The allegations set forth in the complaint were investigated and on September 23, 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 on March 3, 2004. A formal hearing on Respondent's Motion to Dismiss with Prejudice was held by way of telephone conference on April 12, 2004, before the Administrative Law Judge J. D. Parrish.

This matter is before the Commission for consideration of the Recommended Order of Dismissal, dated April 29, 2004, issued in the above-styled matter by Administrative Law Judge J. D. Parrish.

Findings of Fact and Conclusions of Law

On September 23, 2003, the Determination was issued by the Executive Director. The Petitioner filed her Petition for Relief on March 3, 2004. The Petitioner filed the Petition for Relief approximately 159 days after the Commission issued its determination in this case. The Notice of Determination: No Cause provided:

*Complainant may request an administrative hearing by filing a
PETITION FOR RELIEF within 35 days of the date of this
NOTICE OF DETERMINATION: NO CAUSE.*

A Petition for Relief form is enclosed with Complainant's notice. It may be beneficial for Complainant to seek legal counsel prior to filing the petition.

If the Complainant fails to request an administrative hearing within 35 days of the date of this notice, the administrative claim under the Florida Civil Rights Act of 1992, Chapter 760, will be dismissed pursuant to section 760.11, Florida Statutes.

We adopt the Administrative Law Judge's Findings of Fact and Conclusions of Law that the Petition was filed untimely.

Exceptions

Neither party filed exceptions to the Administrative Law Judge's Recommended Order of Dismissal. The Commission received a letter from the Petitioner on May 19, 2004, in which she reargued the merits of the case and indicated that it was her fault that the "letters were late."

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 25th day of June, 2004.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

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

Filed this 25th 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

Copies furnished to:

Stephanie Walker
712 SW 16th Avenue, Apartment 1
Ft. Lauderdale, Florida 33312

Bennett Auto Supply, Inc.
c/o Mr. Richard A. Giardino, Esquire
Davis & Giardino, P.A.
201 Arkona court
West Palm beach, Florida 33401

J. D. Parrish, 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 25th day of June, 2004.

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