

4-29-04

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

FILED  
04 JUN 30 AM 9:42  
DIVISION OF  
ADMINISTRATIVE  
HEARINGS

JACQUELINE WALKER,

HUD Case No. 04-98-2371-8

Petitioner,

FCHR Case No. 98-W087H

v.

DOAH Case No. 99-3578 MMP-CLC

THE FOUNTAIN APARTMENTS AT  
FOUNTAINBLEAU PARK AND ALINA  
PORTUNONO, MANAGER,

FCHR Order No. 04-068

Respondents

AT

**AMENDED FINAL ORDER AWARDING AFFIRMATIVE RELIEF FROM  
A DISCRIMINATORY HOUSING PRACTICE**

Petitioner, JACQUELINE WALKER, filed a complaint of discrimination pursuant to Florida Fair Housing Act, Sections 760.20-760.37, Florida Statutes, alleging that Respondents, THE FOUNTAIN APARTMENTS AT FOUNTAINBLEAU PARK AND ALINA PORTUNONO, MANAGER, committed an unlawful act of housing discrimination by harassing her and, ultimately, unlawfully evicting her because of her race and familial status. The allegations set forth in the complaint were investigated and on June 3, 1999, 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, upon failure of Respondents to file an answer, the file was closed at DOAH. The Commission found that the Petitioner was entitled to relief because Respondents had admitted all material facts by failing to file any answer. The Commission then remanded the case for a determination of relief (FCHR Order # 01-021. The ALJ declined remand; however, the Commission determined that a remand was in order (FCHR Order # 03-046). Petitioner was granted a formal evidentiary hearing on the relief to be granted that was held in Miami on March 4, 2004, before Administrative Law Judge Michael M. Parrish.

Judge Parrish issued a Recommended Order of Dismissal dated April 29, 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**

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).

The ALJ found that the reasonable value of the personal property that was lost as a result of the acts alleged in the Petition for Relief is \$5,281.00. The ALJ further found that there was no evidence that Petitioner incurred any attorney's fees or costs and that unquantifiable damages may not be awarded in this administrative proceeding. The ALJ further concluded that the Division of Administrative Hearings had jurisdiction provided both parties were given proper notice by the FCHR. An investigation of the file in this case showed that the Respondents were provided notice of the case by certified mail on March 23, 1998, just prior to the closing of the sale of the property on March 26, 1998, following a purchase and sale agreement entered into on February 1, 1998. The Complaint was filed with HUD on February 4, 1998, and dual-filed with the FCHR on March 18, 1998. The Respondent(s) filed a Position Statement with the FCHR, prior to its determination, on April 14, 1998. The Petition for Relief and attachments were mailed to the Respondents at the same address as shown on the Position Statement and all former correspondence. There was no return to sender and no prior notice to the Commission that the address was changed.

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 and our prior orders, 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 \$5,281.00 in quantifiable damages.

Respondents are 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 \$5,281.00; and
- (3) to pay Petitioner statutorily established interest rates on the amount awarded Petitioner in (2) above for the period subsequent to January 14, 1998, until said amount, with interest, is paid to Petitioner.

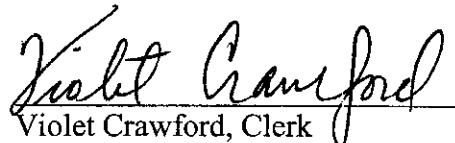
The Commission reserves jurisdiction over the determination of precise amounts of interest owed Petitioner, as well as over the amounts of attorney's fees and costs owed Petitioner should they be incurred by Petitioner in the enforcement of this Order.

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 28<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 28<sup>th</sup> day of June, 2004  
in Tallahassee, Florida.

A handwritten signature in cursive script that reads "Violet Crawford". The signature is written in black ink and is positioned above a horizontal line.

Violet Crawford, Clerk  
Commission on Human Relations  
2009 Apalachee Parkway, Suite 100  
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Honorable Michael M. 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 28<sup>th</sup> day of June, 2004.

BY:   
Clerk of the Commission  
Florida Commission on Human Relations