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DIVISION OF
ADMINISTRATIVE
HEARINGS

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

JAMES L. HEIDEL,

EEOC Case No. NONE

Petitioner,

FCHR Case No. 23-02895

v.

AT

DOAH Case No. 04-0557

SBC

NORTHROP GRUMMAN CORPORATION,

FCHR Order No. 04-112

CWS

Respondent.

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

Petitioner, JAMES L. HEIDEL, filed a complaint of discrimination on May 28, 2003, pursuant to Florida Civil Rights Act of 1992, Sections 760.01-760.11, Florida Statutes (2001), alleging that the Respondent, NORTHROP GRUMMAN CORPORATION, committed an unlawful employment practice by based on his age, disability and in retaliation. The allegations set forth in the complaint were investigated and on January 6, 2004, 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 Viera, Florida, on April 21, 2004 by Administrative Law Judge Jeff B. Clark.

This matter is before the Commission for consideration of the Recommended Order of Dismissal, dated July 8, 2004, issued in the above-styled matter by Judge Clark.

Findings of Fact and Conclusions of Law

In his complaint, the Petitioner alleged discrimination based on his age, disability and in retaliation. The ALJ noted that at the hearing the Petitioner presented no evidence of any disability nor on any claim of retaliation and, therefore, claims on those bases were dismissed. He further noted that the Petitioner was laid-off when the Respondent was faced with significant budget cuts and, following an orderly analysis of customer requirement, it decided to eliminate a database administrator position. Petitioner's administrator duties were assumed by his technical lead person, who had performed the job previous to Petitioner's employment and was approximately the same age as Petitioner. The ALJ found that the Petitioner failed to present a prima facie case by failing to demonstrate that a similarly situated person that was not in his protected class was treated more favorably. The ALJ further found that, even if the Petitioner had made a prima facie case, the Respondent offered legitimate, non-discriminatory business reasons for terminating the Petitioner and that the Petitioner did not prove that those reasons were pretextual.

We adopt the Administrative Law Judge's Findings of Fact and Conclusions of Law that the Petitioner failed to show that the employer treated similarly situated employees outside his

protected class more favorably and further that, even if the Petitioner was found to have made a prima facie case, he failed to show that the Respondent's legitimate, non-discriminatory business reasons for termination were not well-founded and were merely a pretext to discrimination.

Exceptions

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

Dismissal

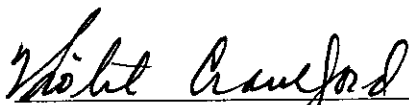
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 22nd day of September, 2004.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Rita Craig, Panel Chairperson
Commissioner John Corbett
Commissioner Dominique B. Saliba, M.D

Filed this 22nd day of September, 2004,
in Tallahassee, Florida.



Violet Crawford, Clerk
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Honorable Jeff B. Clark, 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 22nd day of September, 2004.

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