

7-9-04

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED
04 SEP 23 AM 9:15
DIVISION OF
ADMINISTRATIVE
HEARINGS

EVELYN E. FERRANTI,

EEOC Case No. 15DA400496

Petitioner,

FCHR Case No. 2004-20162

v.

DOAH Case No. 04-1051

JBC

UNITED DOMINION REALTY TRUST, INC.,

FCHR Order No. 04-113

CWS

Respondent.

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

Petitioner, EVELYN E. FERRANTI, filed a complaint of discrimination on October 16, 2003, pursuant to Florida Civil Rights Act of 1992, Sections 760.01-760.11, Florida Statutes (2001), alleging that the Respondent, UNITED DOMINION REALTY TRUST, INC., 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 March 12, 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 June 4, 2004 by Administrative Law Judge Jeff B. Clark.

This matter is before the Commission for consideration of the Recommended Order of Dismissal, dated July 9, 2004, issued in the above-styled matter by Judge Clark.

Findings of Fact and Conclusions of Law

In her complaint, the Petitioner alleged discrimination based on her sex, religion and national origin. The ALJ noted that the Respondent had a stated policy that it would not tolerate any harassment in the workplace and had a method of reporting such by any employee. He further found that the Petitioner did not complain of any acts during her employment and, in fact, complained only after she voluntarily resigned. After her resignation, she complained that she had observed what she considered to be inappropriate sexual conduct between two employees and that a co-employee had made inappropriate comments to her. Nothing in Petitioner's testimony indicates that the purportedly offensive conduct was pervasive. The Petitioner also testified that the conduct had occurred more than a year prior to her resignation; making the incidents upon which complaint was based more than 18 months prior to the filing of her complaint. Petitioner failed to present a prima facie case by failing to demonstrate that a hostile work environment existed and, further, failed to show that, if one existed, the management had, or should have had, knowledge of it. The ALJ further found that, even if the Petitioner had made a prima facie case, she failed to file timely.

We adopt the Administrative Law Judge's Findings of Fact and Conclusions of Law that the Petitioner failed to present a prima facie case and, further, filed her complaint untimely.

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
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:


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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: 
Clerk of the Commission
Florida Commission on Human Relations