

**STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS**

JANELLE K. TAYLOR,)	EEOC Case No. 15DA400611
Petitioner,)	FCHR Case No. 2004-21400
)	DOAH Case No. 04-003310
vs.)	FCHR Order No. 04-163
)	
KELCO/FB TALLAHASSEE, LLC,)	
Respondent)	

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

On March 5, 2004, 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 when she was unfairly treated and, ultimately, terminated because of her race and in retaliation to her asserting her rights. The allegations set forth in the complaint were investigated and on August 23, 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 Tallahassee, Florida, on October 13, 2004. Petitioner failed to make an appearance at the hearing.

Judge Stephen F. Dean, issued a Recommended Order of Dismissal dated October 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 Facts and Conclusions of Law

Judge Dean's order states that Petitioner failed to appear at a formal hearing that he requested under Section 120.57(1), Florida Statutes.

With regard to the steps necessary for establishing that an unlawful employment practice has occurred, it has been stated, "The initial burden is upon Petitioner to establish a prima facie case of discrimination. Once Petitioner established a prima facie case, a presumption of unlawful discrimination is created. The burden then shifts to Respondent to show a legitimate, nondiscriminatory reason for its action. If Respondent carries this burden, Petitioner then must prove by a preponderance of the evidence that the reason offered by the Respondent is not its true reason, but only a pretext for discrimination." See conclusions of law adopted by a Commission panel in Spradlin vs. Washington Mutual Bank, d/b/a Great Western. 23 F.A.L.R. 3359, at 3364, 3365 (FCHR 2001), citations from the quoted statement omitted.

We adopt the Administrative Law Judge's finding as to the fact that the Petitioner did not pursue the complaint and further conclude the Petitioner has failed to carry her burden of proof.

Exceptions

Neither party filed any exceptions to the Recommended Order.

Dismissal

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

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

DONE AND ORDERED this 23rd day of December, 2004
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Mario M. Valle; and
Commissioner Rita Craig; and
Commissioner Roosevelt Paige;

Filed this 23rd day of December, 2004,
in Tallahassee, Florida

/s/

Violet Crawford, Clerk
Commission on Human Relations
4075 Esplanade Way, Room 110
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Stephen F. Dean, Administrative Law Judge, DOAH

Jim Tait, Legal Advisor for Commission Panel

By: /s/

Violet Crawford,

Clerk of the Commission

Florida Commission on Human Relations