

9-28-04

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DIVISION OF ADMINISTRATIVE HEARINGS

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

FLORIDA COMMISSION ON HUMAN  
RELATIONS ON BEHALF OF  
IDA HEAPS,

Petitioner,

AT

HUD Case NO. 04-02-1415-8  
DOAH Case NO. 04-1593  
FCHR Case NO. 22-91794H  
FCHR Order NO. 05-004

SDC  
CWS

vs.

BARBARA STRICKLAND,  
Respondent.

FINAL ORDER AWARDING RELIEF FOR DISCRIMINATORY HOUSING PRACTICE

Preliminary Matters

Ida Heaps (hereinafter referred to as "Complainant"), filed a Housing Discrimination Complaint on September 30, 2002, with Petitioner, the Florida Commission on Human Relations, (hereinafter referred to as "Petitioner") pursuant to Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988 and the Florida Fair Housing Act, Sections 760.22 - 760.37, Florida Statutes (2003), alleging that Respondent, Barbara Strickland (hereinafter referred to as "Respondent"), committed a discriminatory housing practice on the basis of her boyfriend's race.

Following its investigation of the matter, on January 15, 2004, the Petitioner issued a Notice of Determination: Cause and Administrative Charge, charging Respondent with engaging in a discriminatory housing practice in violation of the Fair Housing Act. Complainant elected to have Petitioner resolve the charge in an administrative proceeding pursuant to Section 760.35(3)(a), Florida Statutes (2003), and the matter was transferred to the Division of Administrative Hearings to conduct a formal proceeding.

On July 22, 2004, the Honorable Diane Cleavinger, Administrative Law Judge, presided over an evidentiary hearing. On September 28, 2004, Judge Cleavinger issued a Recommended Order finding that Respondent had committed a discriminatory housing practice.

Findings of Fact

Petitioner's file does not contain a transcript of the hearing before the Administrative Law Judge. In the absence of a transcript, the Administrative Law Judge's Recommended Order is the only evidence for the Petitioner to consider. *National Industries, Inc. v. Commission on Human Relations, et al.*, 527 So. 2d 894, 898 (Fla. 5th DCA 1988). We adopt the Administrative Law Judge's findings of fact.

Conclusions of Law

We approve the Administrative Law Judge's conclusion that Respondent committed a discriminatory housing practice against Complainant in violation of Section 760.23, Florida Statutes (2003). Complainant was not permitted to rent a dwelling that she was financially qualified and otherwise prepared to rent. As a result of Respondent's illegal discriminatory conduct, Complainant rented a less desirable unit that cost \$120.00 a month more than Respondent's property. The Administrative Law Judge determined that Complainant was entitled to recover damages, including the additional deposit and monthly rental fees she paid for alternative housing. The Administrative Law Judge found that Complainant's rental history suggested that she would have resided in Respondent's property for at least five years, that her deposit was \$80.00 more than what Respondent requested, and that she was paying \$120.00 more in monthly rent. As a result of Respondent's discriminatory action, Complainant incurred losses totaling \$7,280.00. We find the Administrative Law Judge's application of the law to the facts to result in the correct disposition of this matter and we adopt the Administrative Law Judge's conclusion of law as it relates to this matter.

Exceptions

Neither party filed exceptions to the Recommended Order.

Conclusion

For the reasons set forth in this Final Order, we conclude that the Administrative Law Judge's Order should be adopted.

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 thirty (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 31<sup>st</sup> day of January, 2005,  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Rita Craig, Panel Chairperson;  
Commissioner Roosevelt Paige; and  
Commissioner Mario M. Valle

Filed this 31<sup>st</sup> day of January, 2005,  
in Tallahassee, Florida.

  
\_\_\_\_\_  
Violet Crawford, Clerk

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Judge Diane Cleavinger, Administrative Law Judge, DOAH