

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

LYNDA DIANNE McCLOUD,

Petitioner,

HUD Case No. 04- 97-2484-8

FCHR Case No. 97-W170H

v.

DOAH Case No. 98-1925

BARBARA S. JONES,

FCHR Order No. 99-009

Respondent.

FINAL ORDER DISMISSING PETITION FOR RELIEF
FROM A DISCRIMINATORY HOUSING PRACTICE

Preliminary Matters

Petitioner Lynda Dianne McCloud filed a housing discrimination complaint pursuant to the Fair Housing Act, Sections 760.20 - 760.37, Florida Statutes (1995), alleging that Respondent Barbara S. McCloud committed a discriminatory housing practice on the basis of Petitioner's race (Black) by failing to rent a housing unit to Petitioner.

The allegations set forth in the complaint were investigated, and, on March 31, 1998, the Commission issued its determination finding that there was no reasonable cause to believe that a discriminatory housing practice had occurred.

Petitioner filed a Petition for Relief from a Discriminatory Housing Practice and the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

An evidentiary hearing was held in Dade City, Florida, on July 13, 1998, before Administrative Law Judge William R. Cave.

Judge Cave issued a Recommended Order of dismissal, dated August 26, 1998.

Pursuant to notice, public deliberations were held on April 8, 1999, by means of Communications Media Technology (namely, telephone) before this panel of Commissioners. The public access point for these telephonic deliberations was the Office of the Florida Commission on Human Relations, 325 John Knox Road, Building F, Suite 240, Tallahassee, Florida, 32303-4149.

At these deliberations, the Commission panel determined the action to be taken on the Petition for Relief.

Findings of Fact

We find the Administrative Law Judge's findings of fact to be supported by competent substantial evidence.

We adopt the Administrative Law Judge's findings of fact.

Conclusions of Law

We find the Administrative Law Judge's overall application of the law to the facts to result in a correct disposition of the matter.

We note that in setting out the test for establishing a prima facie case of discrimination in this matter, the Administrative Law Judge indicated that, as one of the elements of the test, Petitioner must demonstrate that "she is a member of a racial minority." Recommended Order, 31.

While it is true such a showing could be part of the establishment of a prima facie case of discrimination, we conclude that this element should be stated that Petitioner must establish "she is a member of a protected class," since even those who are not members of a "racial minority" are protected by the Fair Housing Act, supra, from unlawful race discrimination.

With this clarification/correction, we adopt the Administrative Law Judge's conclusions of law.

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

DONE AND ORDERED this 17th day of May, 1999.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Whitfield Jenkins
Panel Chairperson;
Commissioner Jeanette LaRussa
Fenton; and
Commissioner Aristides Sosa

Filed this 17th day of May, 1999, in Tallahassee,
Florida.

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