

7-15-03

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED
03 DEC 29 AM 9:36
DIVISION OF ADMINISTRATIVE
HEARINGS

ROSA FOSTER,

Petitioner,

At

EEOC Case No. 15DA200079

FCHR Case No. 22-00041

v.

DOAH Case No. 02-3005

PMR-CW05

APPLEBEE'S NEIGHBORHOOD
BAR & GRILL,

FCHR Order No. 03-084

Respondent.

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

Preliminary Matters

Petitioner Rosa Foster filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (1999), alleging that Respondent Applebee's Neighborhood Bar & Grill committed an unlawful employment practice on the basis of Petitioner's race (Black) by subjecting Petitioner to terms and conditions of employment that were different for Petitioner's white coworkers.

The allegations set forth in the complaint were investigated, and, on July 8, 2002, the Executive Director issued his determination finding that there was reasonable cause to believe that an unlawful employment practice had occurred.

Petitioner filed a Petition for Relief from an Unlawful Employment 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 Pensacola, Florida, on March 6, 2003, before Administrative Law Judge P. Michael Ruff.

Judge Ruff issued a Recommended Order of dismissal, dated July 15, 2003.

The Commission panel designated below considered the record of this matter and determined the action to be taken on the Recommended Order.

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 application of the law to the facts to result in a correct disposition of the matter.

We adopt the Administrative Law Judge's conclusions of law.

Exceptions

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

Dismissal

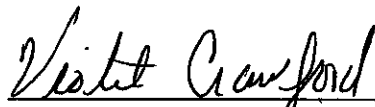
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 25th day of December, 2003.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Billy Whitefox Stall, Panel Chairperson;
Commissioner John Corbett; and
Commissioner Aletta Shutes

Filed this 26th day of December, 2003,
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:

Rosa Foster
3260 Keating Road
Pensacola, FL 32504

Applebee's Neighborhood Bar & Grill
c/o Erick M. Drlicka, Esq.
Emmanuel, Sheppard & Condon
30 South Spring Street
Pensacola, FL 32596

P. Michael Ruff, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 26th day of DECEMBER, 2003.

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