

10-16-03

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED
04 MAR 12 PM 11:00
DIVISION OF
ADMINISTRATIVE
HEARINGS

ESPERANZA GONZALEZ,

EEOC Case No. 15DA1037

Petitioner,

AT

FCHR Case No. 21-00481

v.

DOAH Case No. 03-0720

CA-CWS

SUNGLASS HUT, INC., n/k/a
LUXOTTICA RETAIL,

FCHR Order No. 04-022

Respondent.

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

Preliminary Matters

Petitioner Esperanza Gonzalez 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 Sunglass Hut, Inc., n/k/a Luxottica Retail committed an unlawful employment practice on the basis of Petitioner's age (DOB: 4-29-46) by denying Petitioner a promotion and giving Petitioner a negative evaluation.

The allegations set forth in the complaint were investigated, and, on January 21, 2003, the Executive Director issued his determination finding that there was no 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 by video teleconference at sites in Tallahassee, Florida, and Miami, Florida, on May 27, 2003, before Administrative Law Judge Claude B. Arrington.

Judge Arrington issued a Recommended Order of dismissal, dated October 6, 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

A transcript of the proceeding before the Administrative Law Judge was not filed with the Commission.

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 10th day of March, 2004.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Donna Elam, Panel Chairperson;
Commissioner John Corbett; and
Commissioner Roosevelt Paige

Filed this 10th day of March, 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:

Esperanza Gonzalez
1411 Meridian Avenue, Apt. 11
Miami Beach, FL 33139

Sunglass Hut, Inc., n/k/a Luxottica Retail
c/o Mark J. Chumley, Esq.
Keating, Muething & Klekamp, PLL
1400 Provident Tower
One East Fourth Street
Cincinnati, OH 45202

Claude B. Arrington, 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 10th day of March, 2004.

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