

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

GERALDINE DAR DAR,)
)
 Petitioner,)
)
 vs.) Case No. 04-1137
)
 ASSOCIATED OUTDOOR CLUB, INC.,)
)
 Respondent.)
 _____)

RECOMMENDED ORDER OF DISMISSAL

This matter comes on for review of Respondent's Motion to Dismiss Petition for Relief filed on April 9, 2004. The Petitioner filed a response to the motion on April 13, 2004.

The Petitioner's complaint of discrimination was dual-filed with the Florida Commission on Human Relations (FCHR) and the United States Equal Employment Opportunity Commission (EEOC). On February 10, 2004, the EEOC issued a Dismissal and Notice of Rights in which the EEOC states as follows:

The EEOC issues the following determination:
Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the Respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

On February 19, 2004, FCHR issued a Notice of Dismissal and Right to Sue which provides as follows:

The case was dual filed with the EEOC, and the EEOC issued its determination that it was unable to conclude that the information obtained establishes violations of the statutes. Therefore, pursuant to the authority of Woodham v. Blue Cross & Blue Shield of Florida, 829 So. 2d 891 (Fla. 2002), the case is dismissed and Complainant may pursue this claim in the Division of Administrative Hearings within 35 days of the date of this dismissal, or in civil court within 1 year from the date of this dismissal provided such time period is not more than 4 years from the date the alleged violation occurred.

Florida Administrative Code Rule 60Y-5.008(1) requires that a Petition for Relief must be filed within 35 days of the date of determination. Florida Administrative Code Rule 60Y-3.001(29) provides that the "date of filing" means a completed complaint is received by FCHR prior to 5:00 p.m. (Eastern time).

The 35-day period from the February 19, 2004, date of the Notice of Dismissal and Right to Sue expired on March 25, 2004. In the Petitioner's response the Petitioner states that she mailed her Petition for Relief on March 29, 2004. The Petition for Relief was received and docketed by FCHR on March 31, 2004.

Florida Administrative Code Rule 28-106.103 provides as follows:

28-106.103 Computation of Time.
In computing any period of time allowed by this chapter, by order of a presiding officer, or by any applicable statute, the day of the act from which the period of time

begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday, or legal holiday. When the period of time allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. As used in these rules, legal holiday means those days designated in Section 110.117, F.S. Except as provided in Rule 28-106.217, F.A.C., five days shall be added to the time limits when service has been made by U.S. mail. One business day shall be added when service is made by overnight courier. No additional time shall be added if service is made by hand, facsimile telephone transmission, or other electronic transmission or when the period of time begins pursuant to a type of notice described in Rule 28-106.111, F.A.C.

In this case, the 35-day time period began pursuant to the type of notice described in Florida Administrative Code Rule 28-106.111 which addresses the Petitioner's point of entry into the administrative hearing process. Accordingly, no additional time for mailing is added to the deadline for filing the Petition for Relief.

In the Petitioner's response to the Motion to Dismiss, the Petitioner states that she was not aware that weekends and holidays were included in the time computation. The Petitioner is not subject to a lesser standard of conduct than a licensed attorney. A party's self-representation does not relieve the party of its obligation to comply with appropriate rules.

Carr v. Grace, 321 So. 2d 618 (Fla. 3rd DCA 1975), cert. denied
348 So. 2d 945 (Fla. 1977).

Based on the foregoing, it is hereby

RECOMMENDED that the Florida Commission on Human Relations
enter a Final Order dismissing the Petition for Relief filed in
this case.

DONE AND ENTERED this 3rd day of May, 2004, in Tallahassee,
Leon County, Florida.

William F. Quattlebaum

WILLIAM F. QUATTLEBAUM
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 3rd day of May, 2004.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.