

11-18-04

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

EDDIE L. NEWTON,

Petitioner,

v.

PENSACOLA GLASS COMPANY,

Respondent.

AT

EEOC Case No. 15DA300800

FCHR Case No. 23-02137

DOAH Case No. 04-2021

FCHR Order No. 05-001

pmr
CWS

05 FEB - 1 AM 10:03
DIVISION OF
ADMINISTRATIVE
HEARINGS
FILED

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

This matter is before the Commission for consideration of the Recommended Order of Dismissal, dated November 18, 2004, issued in the above-styled matter by Administrative Law Judge P. Michael Ruff.

Findings of Fact and Conclusions of Law

Judge Ruff's order reflects that Petitioner failed to respond to Requests for Admission from Respondent, that the Requests for Admission are therefore deemed admitted, and that upon these admissions there are no disputed issues of material fact remaining to be litigated. Judge Ruff recommended the Commission enter an order dismissing the Petition for Relief in its entirety.

Judge Ruff's order also notes that Respondent's Motion for Summary Final Order (Dismissal) filed in this matter "delineates facts, supported by affidavit and evidence which, if not responded to and opposed, show that no disputes of material fact remain for adjudication in this forum because the facts therein delineated show the absence of a discriminatory reason for the employment action originally at issue." Judge Ruff's order states that this motion "has never been responded to, after a lapse of nearly four months."

We adopt the Administrative Law Judge's recommendation that the Petition for Relief be dismissed.

Exceptions

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

Dismissal

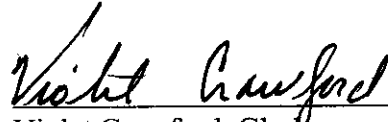
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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

DONE AND ORDERED this 31st day of January, 2005.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Roosevelt Paige, Panel Chairperson;
Commissioner Gayle Cannon; and
Commissioner Dominique B. Saliba, M.D.

Filed this 31st day of January, 2005,
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:

Eddie L. Newton
3002 North Miller Street
Pensacola, FL 32502

FCHR Order No. 05-001
Page 3

Pensacola Glass Company
c/o R. Todd Harris, Esq.
McDonald, Fleming, Moorhead
4300 Bayou Boulevard, Suite 13
Pensacola, FL 32503

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 31st day of January, 2005.

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