

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

BETTY MCNAIR,)
)
 Petitioner,)
)
 vs.) Case No. 05-0025
)
 WESTGATE MOTEL,)
)
 Respondent.)
 _____)

RECOMMENDED ORDER OF DISMISSAL

Pursuant to notice this cause came on for formal hearing, before P. Michael Ruff, duly-designated Administrative Law Judge of the Division of Administrative Hearings on May 9, 2005, in Perry, Florida. The appearances were as follows:

APPEARANCES

For Petitioner: No Appearance

For Respondent: Gregory S. Parker, Esquire
The Parker Law Firm
315 West Green Street
Post Office Drawer 509
Perry, Florida 32348

STATEMENT OF THE ISSUE

The issue to be resolved in this proceeding concerns whether the Petitioner had been discriminated against based upon race for alleged denial of lodging, as addressed in Chapter 760, Florida Statutes.

PRELIMINARY STATEMENT

This cause arose upon the filing of a charge of discrimination based upon race by the above-named Petitioner with the Florida Commission on Human Relations (Commission). The Commission on December 17, 2004, entered a Notice of Determination, finding no cause to believe a discriminatory practice had occurred.

Thereafter the Petitioner filed a Petition for Relief continuing to assert her claim of discrimination against the above-named Respondent.

The cause ultimately was assigned to the undersigned administrative law judge and came on for hearing as noticed on the above-referenced date. Upon convening the hearing the Petitioner failed to appear. After waiting for a substantial period of time approximately one hour, the Petitioner never entered an appearance and never therefore advanced a prima facie claim. Because the Petitioner has the burden of proof, the Respondent was not required to present any evidence and the hearing was adjourned.

FINDINGS OF FACT

1. The Findings of Fact are in essence as stated in the above Preliminary Statement concerning the Petitioner's lack of appearance at the hearing. The hearing was duly noticed at the last address of record for the parties, including the

Petitioner. No appearance has ever been entered since the convening of the hearing and no communication, by the Petitioner, with the undersigned, telephonically, or in writing or otherwise has been made to explain her absence from the duly-scheduled hearing. She has provided no indication that she wishes to prosecute her claim. Accordingly, being advised in the premises, it is

RECOMMENDATION

RECOMMENDED: That a final order be entered by the Florida Commission on Human Relations dismissing this Petition for lack of prosecution, based upon the above-stated reasons.

DONE AND ENTERED this 5th day of July, 2005, in Tallahassee, Leon County, Florida.



P. MICHAEL RUFF
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 5th day of July, 2005.

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.