

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

FLORIDA COMMISSION ON HUMAN)
RELATIONS, ON BEHALF OF IDA)
HEAPS,)
)
Petitioner,)
)
vs.) Case No. 05-1317F
)
BARBARA STRICKLAND,)
)
Respondent.)
_____)

FINAL ORDER

Petitioner filed a Motion for Summary Disposition, requesting that Petitioner be awarded attorney's fees and costs they incurred in the underlying case (Case Number 04-1593) in which they were the prevailing party. Respondent did not file a response to Petitioner's Motion. After review of the Motion, being otherwise advised of the premises, and since there are no disputed issues of fact, summary disposition is appropriate.

STATEMENT OF THE ISSUE

The issue in this proceeding is whether Petitioner is entitled to attorney's fees and costs.

FINDINGS OF FACT

1. This case was filed by Petitioner on behalf of Ida Heaps pursuant to Section 760.35, Florida Statutes. The case alleged that Respondent discriminated against Petitioner, Heaps,

based on race when Respondent did not lease a home to Petitioner Heaps.

2. On July 22, 2004, in Tavares, Florida, a one-day hearing was held after which post-hearing recommended orders were filed. Based on the evidence a Recommended Order finding Respondent guilty of a discriminatory housing practice against Ms. Heaps in violation of Section 760.23(1), Florida Statutes, was entered on February 1, 2005. Petitioner was therefore the prevailing party in this matter. The Recommended Order also found that Petitioner was entitled to attorney's fees and costs; and reserved jurisdiction to determine the amount of fees and costs in the event the parties were unable to agree on such an award.

3. On January 31, 2005, the Commission issued its Final Order approving the Recommended Order. The time limit for appealing the Final Order has passed.

4. Petitioner has not been able to resolve the amount of fees and costs incurred in this matter.

5. As evidence of the amount of attorney's fees, Petitioner, FCHR, submitted an affidavit outlining the hours and costs spent incurred in the underlying case by its attorney. The requested fees are limited to hours expended on Petitioner's behalf in DOAH Case No. 04-1593, including time spent in travel and establishing a right to attorney's fees and costs.

Petitioner's attorney spent a total of 53 hours on this case, which include 46 hours for legal services and seven hours for travel. The hours multiplied by the reasonable rate results in a total of \$14,850.00 for attorney's fees. The Commission's direct costs total \$453.70, which include the travel costs of Petitioner's attorney and investigator to attend the hearing and the court reporter's fee.

6. The time spent on this case by the Petitioner's attorney was reviewed by an outside expert. The expert has found the time to be reasonable and has recommended a reasonable hourly rate, arrived at independently of the Commission and its attorneys and without direction by Petitioner, based on the nature, novelty and complexity of the case, and the expertise of the Petitioner's attorney in federal and Florida administrative and anti-discrimination law. The expert opined that a rate of \$300.00 per hour legal services and \$150.00 per hour for travel was reasonable.

7. Respondent did not challenge the affidavit of Petitioner's or the expert's opinion. The amount of hours and costs reflected in the affidavit are reasonable for this type of case. Likewise, the hourly fees for such litigation are reasonable for this type of case and the long experience of

Petitioner's attorney. Therefore, Petitioner, FCHR, is entitled to an award of attorney's fees and costs in the amount of \$15,303.70.

CONCLUSIONS OF LAW

8. The Division of Administrative Hearings has jurisdiction over the parties to and the subject matter of this proceeding. § 120.57(1), Fla. Stat.

9. What constitutes a reasonable award of attorney's fees and costs and the proof necessary to make a showing of reasonableness were set forth by the Supreme Court of Florida in Florida Patient's Compensation Fund v. Rowe, 472 So. 2d. 1145 (Fla. 1985). The reasonableness of fees is determined by such factors as the difficulty of the questions involved, the fee customarily charged in the locality for similar legal services and the experience and ability of the attorney. Rowe at 1150.

10. In this case, Petitioner has established the reasonableness of the hours, costs and rates incurred in the underlying action.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is

ORDERED:

Petitioner FCHR is entitled to an award of attorney's fees and costs in the amount of \$15,303.70.

DONE AND ORDERED this 27th day of July, 2005, in
Tallahassee, Leon County, Florida.

Diane Cleavinger

DIANE CLEAVINGER
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 27th day of July, 2005.

COPIES FURNISHED:

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NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to judicial review pursuant to Section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing the original notice of appeal with the Clerk of the Division of Administrative Hearings and a copy, accompanied by filing fees prescribed by law, with the District Court of Appeal, First District, or with the District Court of Appeal in the Appellate District where the party resides. The notice of appeal must be filed within 30 days of rendition of the order to be reviewed.