

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

FILED  
06 FEB -3 PM 2:39  
DIVISION OF  
ADMINISTRATIVE  
HEARINGS

BARBARA MARTIN,

EEOC Case No. 15DA500641

Petitioner,

FCHR Case No. 2005-01652

v.

DOAH Case No. 05-3079

WOODLAND EXTENDED CARE, INC.,

FCHR Order No. 06-015

Respondent.

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

**Preliminary Matters**

Petitioner Barbara Martin filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2003), alleging that Respondent Woodland Extended Care, Inc., committed an unlawful employment practice on the basis of Petitioner's disability (referred to as "depression" in the Complaint of Discrimination, and referred to as "asthma" and "depression" in the Petition for Relief) when it terminated Petitioner from employment.

The allegations set forth in the complaint were investigated, and, on August 3, 2005, 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 on November 8, 2005, in Deland, Florida, before Administrative Law Judge Suzanne F. Hood.

Judge Hood issued a Recommended Order of dismissal, dated November 30, 2005.

Pursuant to notice, public deliberations were held on January 26, 2006, by means of Communications Media Technology (namely, telephone) before this panel of Commissioners. The public access point for these telephonic deliberations was the Office of the Florida Commission on Human Relations, 2009 Apalachee Parkway, Suite 100, Tallahassee, Florida, 32301. At these deliberations, the Commission panel determined the action to be taken on the Recommended Order.

Findings of Fact

We find the Administrative Law Judge's findings of fact to be supported by competent substantial evidence.

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

Petitioner filed exceptions to the Administrative Law Judge's Recommended Order in a document received by the Commission on December 14, 2005.

The document takes issue with the facts found by the Administrative Law Judge and the credibility afforded Petitioner's testimony as explained at Recommended Order, ¶ 15, regarding Petitioner allegedly telling Ms. Engram to have an ambulance present in case Petitioner had an asthma attack from the strong chemicals used to strip the floors.

The Commission has stated, "It is well settled that it is the Administrative Law Judge's function 'to consider all of the evidence presented and reach ultimate conclusions of fact based on competent substantial evidence by resolving conflicts, judging the credibility of witnesses and drawing permissible inferences therefrom. If the evidence presented supports two inconsistent findings, it is the Administrative Law Judge's role to decide between them.' Beckton v. Department of Children and Family Services, 21 F.A.L.R. 1735, at 1736 (FCHR 1998), citing Maggio v. Martin Marietta Aerospace, 9 F.A.L.R. 2168, at 2171 (FCHR 1986)." Barr v. Columbia Ocala Regional Medical Center, 22 F.A.L.R. 1729, at 1730 (FCHR 1999).

In addition, there is no indication on Petitioner's exception document that it was served on Respondent by Petitioner as is required by Fla. Admin. Code R. 28-106.110.

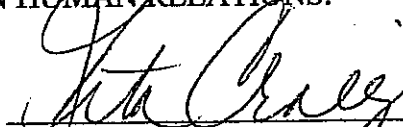
Petitioner's exceptions are rejected.

Dismissal

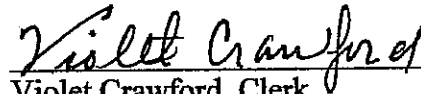
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 2<sup>nd</sup> day of February, 2006.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

  
\_\_\_\_\_  
Commissioner Rita Craig,  
Panel Chairperson;  
Commissioner Gayle Cannon; and  
Commissioner Roosevelt Paige

Filed this 2<sup>nd</sup> day of February, 2006,  
in Tallahassee, Florida.

  
\_\_\_\_\_  
Violet Crawford, Clerk  
Commission on Human Relations  
2009 Apalachee Parkway, Suite 100  
Tallahassee, FL 32301  
(850) 488-708

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:

Barbara Martin  
635 West Hubbard Avenue  
Deland, FL 32720

Woodland Extended Care, Inc.  
c/o Kelly V. Parsons, Esq.  
Cobb and Cole  
Post Office Box 2491  
Daytona Beach, FL 32115-2491

Suzanne F. Hood, 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 2<sup>nd</sup> day of February, 2006.

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