

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

MARCY S. KELLY,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Case No. 06-0483
	)	
FLORIDA CROWN WORKFORCE	)	
BOARD, INC.,	)	
	)	
Respondent.	)	
_____	)	

RECOMMENDED ORDER OF DISMISSAL

This cause came before the undersigned on Respondent, Florida Crown Workforce Board, Inc.'s (Florida Crown), Motion to Dismiss for Lack of Jurisdiction. Petitioner did not file a response to the motion.

Oral argument was heard on the Motion during a telephone conference call held on March 23, 2006.

This case began when Petitioner filed an Employment Complaint of Discrimination with the Florida Commission on Human Relations (FCHR) on November 18, 2005. The complaint alleged discrimination on the basis of race by Respondent. After an investigation of the charge, FCHR issued a Determination: No Jurisdiction and a Notice of Determination: No Jurisdiction on January 6, 2006. The Determination: No Jurisdiction was based on the determination that no employer-employee relationship

exists between the parties. On February 2, 2006, Petitioner filed a Petition for Relief with attachments. On or about February 9, 2006, the case was transmitted by FCHR to the Division of Administrative Hearings.

#### FINDINGS OF FACT

1. Respondent's Motion to Dismiss for Lack of Jurisdiction asserts that Petitioner was never an employee of Florida Crown and that Petitioner conceded this in attachments to her Petition for Relief. During the telephone motion hearing, Petitioner acknowledged that she was not employed by Florida Crown.

2. Therefore, as a matter of fact, no employer-employee relationship existed between the parties.

#### CONCLUSIONS OF LAW

3. Section 760.02(7), Florida Statutes, defines an employer as follows:

(7) 'Employer' means any person employing 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person. (emphasis supplied)

4. As a matter of law, no employer-employee relationship existed between the parties. Accordingly, FCHR has no jurisdiction under the Florida Civil Rights Act over this case.

#### RECOMMENDATION

Based on the foregoing, it is

RECOMMENDED:

That the Florida Commission on Human Relations enter a final order dismissing Petitioner's Complaint of Discrimination. With this disposition, the Final Hearing in this case scheduled for May 5 and 6, 2006, is cancelled, and the file of the Division of Administrative Hearings is hereby closed.

DONE AND ENTERED this 23rd day of March, 2006, in Tallahassee, Leon County, Florida.



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BARBARA J. STAROS  
Administrative Law Judge  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 23rd day of March, 2006.

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