

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED
07 JAN 18 AM 11:01
DIVISION OF
ADMINISTRATIVE
HEARINGS

OLIVIA LEWIS,

EEOC Case No. 150200509498

Petitioner,

FCHR Case No. 2006-00928

v.

DOAH Case No. 06-1663

ACTS RETIRMENT - LIFE
COMMUNITIES, INC., d/b/a
INDIAN RIVER ESTATES,

FCHR Order No. 07-002

Respondent.

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

Preliminary Matters

Petitioner Olivia Lewis 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 ACTS Retirement – Life Communities, Inc., d/b/a Indian River Estates, committed unlawful employment practices on the basis of Petitioner’s race (Black) by failing to restore Petitioner’s schedule upon Petitioner’s return from medical leave and by later terminating Petitioner from her position.

The allegations set forth in the complaint were investigated, and, on March 30, 2006, 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 in Vero Beach, Florida, on September 6, 2006, before Administrative Law Judge Robert E. Meale.

Judge Meale issued a Recommended Order of dismissal, dated October 27, 2006.

The Commission panel designated below considered the record of this matter and determined the action to be taken on the Recommended Order.

Findings of Fact

A transcript of the proceeding before the Administrative Law Judge was not filed with the Commission. In the absence of a transcript of the proceeding before the Administrative Law Judge, the Recommended Order is the only evidence for the Commission to consider. See National Industries, Inc. v. Commission on Human

Relations, et al., 527 So. 2d 894, at 897, 898 (Fla. 5th DCA 1988). Accord, Beach-Gutierrez v. Bay Medical Center, FCHR Order No. 05-011 (January 19, 2005), and Waaser v. Streit's Motorsports, FCHR Order No. 04-157 (November 30, 2004).

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

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

Dismissal

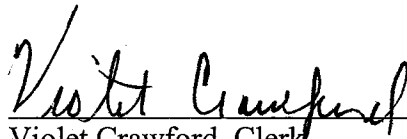
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 17th day of January, 2007.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Rita Craig, Panel Chairperson;
Commissioner Shahrukh S. Dhanji; and
Commissioner Anice R. Prosser

Filed this 17th day of January, 2007,
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:

Olivia Lewis
806 Mulberry Street
Sebastian, FL 32958

ACTS Retirement – Life Communities, d/b/a Indian River Estates
c/o David E. Block, Esq.
c/o Scott S. Allen, Esq.
Jackson, Lewis, LLP
One Biscayne Tower
2 South Biscayne Boulevard, Suite 3500
Miami, FL 33131

Robert E. Meale, 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 17th day of January, 2007.

By: 
Clerk of the Commission
Florida Commission on Human Relations