

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

2008 FEB 11 P 2:10

WANDA HUTCHESON,

Petitioner,

v.

ROBERT AND JUSTYN MACFARLAND  
AND SAND DUNE PROPERTIES,

Respondents.

DIVISION OF  
ADMINISTRATIVE  
HEARINGS

HUD Case No. 04-06-0937-8

FCHR Case No. 26-91916H

DOAH Case No. 07-1087

FCHR Order No. 08-014

**FINAL ORDER DISMISSING PETITION FOR  
RELIEF FROM A DISCRIMINATORY HOUSING PRACTICE**

Preliminary Matters

Petitioner Wanda Hutcheson filed a housing discrimination complaint pursuant to the Fair Housing Act, Sections 760.20 - 760.37, Florida Statutes (2005), alleging that Respondents Robert and Justyn MacFarland and Sand Dune Properties committed a discriminatory housing practice on the basis of Petitioner's disability (identified in the complaint as "mental disability") by failing to renew the lease on the dwelling Petitioner was renting.

The allegations set forth in the complaint were investigated, and, on February 6, 2007, the Executive Director issued a determination finding that there was no reasonable cause to believe that a discriminatory housing practice had occurred.

Petitioner filed a Petition for Relief from a Discriminatory Housing Practice and the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

An evidentiary hearing was conducted in Pensacola, Florida, on August 6, 2007, before Administrative Law Judge Diane Cleavinger.

Judge Cleavinger issued a Recommended Order of dismissal, dated December 7, 2007.

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). See, also, Villamizar, et al. v. Gomez, FCHR Order No. 06-093 (November 13, 2006).

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

None of the parties filed exceptions to the Administrative Law Judge's Recommended Order.

Dismissal

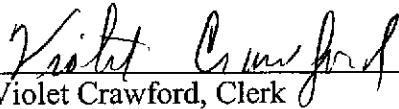
The Petition for Relief and Housing Discrimination Complaint are DISMISSED with prejudice.

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 8<sup>th</sup> day of February, 2008.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Donna Elam, Panel Chairperson;  
Commissioner Gayle Cannon; and  
Commissioner Gilbert M. Singer

Filed this 8<sup>th</sup> day of February, 2008,  
in Tallahassee, Florida.

  
Violet Crawford, Clerk  
Commission on Human Relations  
2009 Apalachee Parkway, Suite 100  
Tallahassee, FL 32301  
(850) 488-7082

Copies furnished to:

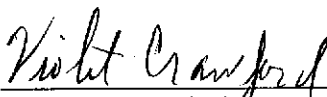
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Diane Cleavinger, Administrative Law Judge, DOAH

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 8<sup>th</sup> day of February, 2008.

By:   
Clerk of the Commission  
Florida Commission on Human Relations