

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED
07 AUG 22 AM 10:30
DIVISION OF
ADMINISTRATIVE
HEARINGS

PAMELA GUENTHER,

EEOC Case No. 15D200603542

Petitioner,

FCHR Case No. 2006-01964

v.

DOAH Case No. 07-1528

DOUGLAS C. HALL, M.D., P.A.,

FCHR Order No. 07-043

Respondent.

**FINAL ORDER AWARDING AFFIRMATIVE
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE**

Preliminary Matters

Petitioner Pamela Guenther filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2005), alleging that Respondent Douglas C. Hall, M.D., P.A., committed an unlawful employment practice on the basis of Petitioner's age (DOB: 4-7-55) by terminating Petitioner from employment.

The allegations set forth in the complaint were investigated, and, on January 9, 2007, the Executive Director issued his determination finding that there was 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 before Administrative Law Judge Don W. Davis in Ocala, Florida, on June 5, 2007. Respondent failed to appear at the hearing.

Judge Davis issued a Recommended Order recommending that the Commission find that an unlawful employment practice occurred and recommending affirmative relief, dated June 29, 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).

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.

Affirmative Relief

Through our adoption of the Administrative Law Judge's findings of fact and conclusions of law, as set out above, we find that unlawful discrimination occurred in this matter in the manner found by the Administrative Law Judge and have adopted the Administrative Law Judge's recommendations for the remedy of the discrimination, recognizing that interest is to be applied to the back pay amount owed as a matter of law.

Respondent is hereby ORDERED:

(1) to cease and desist from discriminating further in the manner it has been found to have unlawfully discriminated against Petitioner, as recommended by the Administrative Law Judge;

(2) to remit back pay to Petitioner in the amount of \$1,240 for her last paycheck, plus a year's wages in the amount of \$26,000, as recommended by the Administrative Law Judge; and

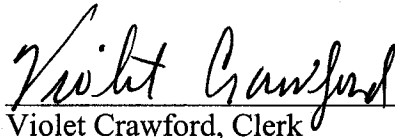
(3) that the amounts awarded in (2), above, be paid within 90 days of entry of this final order, as recommended by the Administrative Law Judge.

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 21st day of August, 2007.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Rita Craig, Panel Chairperson;
Commissioner Gayle Cannon; and
Commissioner Anice R. Prosser

Filed this 21st day of August, 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:

Pamela Guenther
801 Northwest 75th Terrace
Ocala, FL 34482

Douglas C. Hall, M.D., P.A.
c/o Laurie Johnson, Office Manager
2801 Southeast 1st Avenue
Ocala, FL 34471

Don W. Davis, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel

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I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 21st day of August, 2007.

By: Violet Crawford
Clerk of the Commission
Florida Commission on Human Relations