

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED

FELIXBERTO A. LLEVADO,

Petitioner,

v.

SANDESTIN GOLF AND BEACH
RESORT,

Respondent.

2009 APR 13 A 10: 56

DIVISION OF
ADMINISTRATIVE
HEARINGS

EEOC Case No. 15D200800081

FCHR Case No. 2008-00047

DOAH Case No. 08-4553

FCHR Order No. 09-027

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

Preliminary Matters

Petitioner Felixberto A. Llevado 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 Sandestin Golf and Beach Resort committed unlawful employment practices on the bases of Petitioner's National Origin (Asian) and disability by subjecting Petitioner to different terms and conditions of employment, discipline and harassment; by denying Petitioner a reasonable accommodation; and by terminating Petitioner.

The allegations set forth in the complaint were investigated, and, on July 30, 2008, 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 Shalimar, Florida, on November 17, 2008, before Administrative Law Judge Susan B. Harrell.

Judge Harrell issued a Recommended Order of dismissal, dated January 14, 2009.

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

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

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

Petitioner filed a Proposed Recommended Order with the Commission on January 29, 2009. The document does not appear to specifically "except" to the Recommended Order and appears to insert into the record additional alleged facts not in the record.

We decline to consider this document as an "exceptions" document. Accord, generally, Hurtado v. North Florida Rehab and Specialty Care, FCHR Order No. 08-047 (July 29, 2008) in which a Commission panel declined to consider as an "exceptions" document a filing which sought to place into the record a letter that was not admitted into evidence by the Administrative Law Judge.

Dismissal

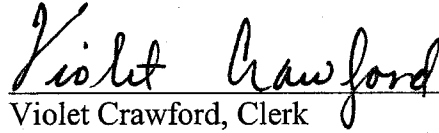
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 9th day of April, 2009.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Onelia A. Fajardo, Panel Chairperson;
Commissioner Watson Haynes, II; and
Commissioner Anice R. Prosser

Filed this 9th day of April, 2009,
in Tallahassee, Florida.



Violet Crawford, Clerk
Commission on Human Relations
2009 Apalachee Parkway, Suite 200
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:


Felixberto A. Llevado
63 Oak Lane
Shalimar, FL 32579

Sandestin Golf and Beach Resort
c/o Brian S. Duffy, Esq.
c/o Ashley Nicole Richardson, Esq.
McConnaughay, Duffy, Coonrod,
Pope & Weaver, P.A.
Post Office Drawer 229
Tallahassee, FL 32302-0229

Susan B. Harrell, 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 9th day of April, 2009.

By: 
Clerk of the Commission
Florida Commission on Human Relations