

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED

BRUNEL DANGERVIL,

Petitioner,

v.

TRUMP INTERNATIONAL BEACH
RESORT,

Respondent.

2009 MAY 19 A 10:30

DIVISION OF
ADMINISTRATIVE
HEARINGS

EEOC Case No. NONE

FCHR Case No. 2008-01624

DOAH Case No. 08-4873

FCHR Order No. 09-053

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

Preliminary Matters

Petitioner Brunel Dangervil 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 Trump International Beach Resort committed unlawful employment practices on the basis of Petitioner's National Origin (Haitian) by subjecting Petitioner to disparate terms and conditions of employment, subjecting Petitioner to harassment, and terminating Petitioner from employment.

The allegations set forth in the complaint were investigated, and, on September 10, 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 by video teleconference on December 9, 2008, at sites in Miami and Tallahassee, Florida, before Administrative Law Judge J. D. Parrish.

Judge Parrish issued a Recommended Order of dismissal, dated February 27, 2009.

Pursuant to notice, public deliberations were held on May 12, 2009, by means of Communications Media Technology (namely, telephone) before this panel of Commissioners. The public access point for these telephonic deliberations was the Office of the Florida Commission on Human Relations, 2009 Apalachee Parkway, Suite 200, Tallahassee, Florida, 32301. At these deliberations, the Commission panel 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

Petitioner filed an exception to the Administrative Law Judge's Recommended Order in a document entitled "Petitioner Exception(s) to Recommended Order." This document was filed on March 4, 2009, with the Division of Administrative Hearings. While the exceptions document was sent to the Division of Administrative Hearings rather than the Commission, it was filed with the Division of Administrative Hearings within fifteen days after the issuance of the Recommended Order, and therefore is deemed timely filed. Accord, Lane v. Terry Laboratories, Inc., FCHR Order No. 08-022 (April 14, 2008), Lucas v. Department of Children and Family Services, FCHR Order No. 07-023 (March 12, 2007), Harris v. Lake County School District, FCHR Order No. 06-057 (June 20, 2006), Brockman v. University of Miami-Bascom Palmer Eye Institute, FCHR Order No. 05-127 (November 21, 2005), and Welch v. Department of Children and Family Services, FCHR Order No. 05-118 (October 20, 2005).

Petitioner's exceptions document excepts to the Administrative Law Judge's conclusion that Petitioner was not terminated and the Administrative Law Judge's conclusion, "...that another tribunal might have determined Petitioner should collect unemployment compensation does not address the standards of law applicable to this matter." Petitioner argues that the doctrine of collateral estoppel should be applied to conclude that Petitioner was in fact terminated by Respondent based on the conclusion of an unemployment compensation proceeding following Petitioner's leaving Respondent's employ.

In conclusions of law adopted by a Commission panel it has been stated, "U[n]employment] C[ompensation] Orders...are not estoppel, res judicata or 'law of the case' for our purposes here, pursuant to Chapter 760, Florida Statutes." Bell v. Surrey Place Center, FCHR Order No. 03-020 (April 29, 2003), adopting conclusions of law set out in the Recommended Order of DOAH Case No. 02-1765, dated December 19, 2002.

Based on the foregoing, Petitioner's exception is rejected.

Dismissal

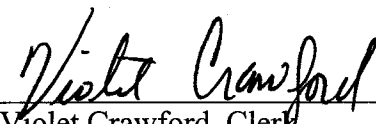
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 18th day of May, 2009.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Donna Elam, Panel Chairperson;
Commissioner Watson Haynes, II; and
Commissioner Billy Whitefox Stall

Filed this 18th day of May, 2009,
in Tallahassee, Florida.



Violet Crawford, Clerk
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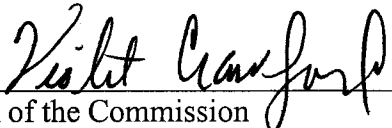
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J. D. Parrish, Administrative Law Judge, DOAH

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 18th day of May, 2009.

By: 
Clerk of the Commission
Florida Commission on Human Relations