

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

SHAWN TAYLOR,)
)
 Petitioner,)
)
 vs.) Case No. 08-6177
)
 FORT WALTON BEACH HOUSING)
 AUTHORITY,)
)
 Respondent.)
 _____)

RECOMMENDED ORDER OF DISMISSAL

Pursuant to notice, this cause came on for Formal Hearing before P. Michael Ruff, a duly-designated Administrative Law Judge of the Division of Administrative Hearings. The hearing was conducted in Shalimar, Florida, on August 4, 2009. The appearances were as follows:

APPEARANCES

For Petitioner: No appearance

For Respondent: Jeffery Daryl Toney, Esquire
Law Office of Jeffery D. Toney, Sr.
502 North Main Street
Post Office Box 579
Crestview, Florida 32536

STATEMENT OF THE ISSUES

Whether the Petitioner has been the victim of an unlawful Housing Practice, as addressed in Sections 760.20 through 760.37, Florida Statutes, by being subjected to discriminatory terms, conditions, or privileges in the rental of a dwelling,

and in the provision of services or facilities in connection with such dwelling, because of a handicap of the Petitioner.

PRELIMINARY STATEMENT

This cause arose upon the filing of a complaint and Petition for relief by the Petitioner, Shawn Taylor. The Petition for Relief was filed December 4, 2008, and was based on a complaint filed August 6, 2008. The Florida Commission on Human Relations (Commission) entered a finding of "No Cause" on November 6, 2008.

Upon filing of the Petition for Relief, the matter was transmitted to the Division of Administrative Hearings and the undersigned Administrative Law Judge.

The matter was set for hearing on February 12, 2009, and, after one unopposed continuance, was scheduled for April 24, 2009. On March 26, 2009, the parties jointly moved to abate until a concurrent investigation by the United States Department of Housing and Urban Development could be completed. That motion was granted, by Order of April 14, 2009. Thereafter, upon receiving responses to a Show Cause Order entered June 5, 2009, the case was scheduled for hearing on August 4, 2009.

Upon convening the hearing, the Petitioner failed to appear.

Counsel for the Respondent represented that neither he, nor any witness or other person present, had observed the Petitioner

in the vicinity of the hearing room or site. After waiting for 45 minutes, the Petitioner never appeared to prosecute her claim. The notice was duly-served, un-retuned, on the Petitioner at the last-known address of record.

The scheduled hearing was adjourned because the Petitioner, with the burden of proof, had failed to appear and present evidence. No evidence was taken from the Respondent.

After the hearing, an Order to Show Cause was entered, requiring the Petitioner to explain any good cause for her failure to appear. The response to that Order was due on August 23, 2009. No response was filed.

FINDINGS OF FACT

1. The hearing in this matter was convened at the duly-noticed time and location at the Visiting Judge's Chambers at the Okaloosa County Courthouse Annex, at 10:00 a.m., Central Standard Time. The Petitioner failed to appear. The Respondent, the court reporter and the undersigned waited at the hearing room for 45 minutes and the Petitioner never appeared. The Petitioner was appropriately served with the Notice of Hearing, at her last-known address of record. Counsel for the Respondent represented, on the record, that neither he, nor any person present who was acquainted with the Petitioner, had observed the Petitioner in the vicinity of the hearing site.

2. In light of this circumstance, no evidence was taken, because the Petitioner, as the party with the burden of proof, had not appeared to advance her claim. The hearing was therefore adjourned and the above-referenced Order to Show Cause was issued, requiring a showing of good cause for the failure to appear, on pain of dismissal for a failure to timely respond. The response was due on August 23, 2009. No response was filed.

CONCLUSIONS OF LAW

In light of the above-found circumstances, it is apparent that the Petitioner has failed, after ample opportunities, to appear and prosecute her claim. That being the case, and being advised in the premises, it is

RECOMMENDED that a Final Order be entered by the Florida Commission on Human Relations denying the Petition in its entirety.

DONE AND ENTERED this 23rd day of September, 2009, in Tallahassee, Leon County, Florida.



P. MICHAEL RUFF
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 23rd day of September, 2009.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.