

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED

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COMMISSION OF
ADMINISTRATIVE
HEARINGS

VICTOIRE MERCERON,

HUD Case No. 04-08-1629-8

Petitioner,

FCHR Case No. 29-92760H

v.

DOAH Case No. 08-6415

THE PARTNERSHIP, INC.,

FCHR Order No. 09-069

Respondent.

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

Preliminary Matters

Petitioner Victoire Merceron filed a housing discrimination complaint pursuant to the Fair Housing Act, Sections 760.20 - 760.37, Florida Statutes (2007), alleging that Respondent The Partnership, Inc., committed discriminatory housing practices on the bases of Petitioner's sex (female) and familial status (pregnant and custodial parent of two children) by failing to allow Petitioner to apply for a low income apartment and by evicting Petitioner from her apartment at the same property.

The allegations set forth in the complaint were investigated, and, on December 11, 2008, 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 held in Port Charlotte, Florida, on April 1, 2009, before Administrative Law Judge R. Bruce McKibben.

Judge McKibben issued a Recommended Order of dismissal, dated May 21, 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

Respondent filed an exception to the Administrative Law Judge's Recommended Order with the Division of Administrative Hearings on June 4, 2009. While the exceptions document was sent to the Division of Administrative Hearings rather than the Commission, it was filed with 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).

Respondent's exceptions document argues that Finding of Fact No. 6 is not supported by competent substantial evidence in the record, and is extraneous to the relevant issues in this case.

Paragraph 6 of the Recommended Order states, "When Respondent took over management of The Pines, it terminated some of NDC Management's employees and retained some other employees. Petitioner was not retained by Respondent as an employee."

Our review of the record suggests that Petitioner's no longer serving as a leasing agent for The Pines appears to be a factor in her needing to vacate her apartment, and therefore, paragraph 6 of the Recommended Order does not appear to be "extraneous" to the relevant issues of this case. In addition, the testimony of Jacquie Halvax on pages 75 and 76 of the transcript is sufficient from which the Administrative Law Judge could draw the inference that some employees were retained and others were terminated at the time of the management company switch on July 31, 2008.

Respondent's exception is rejected.

Dismissal

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

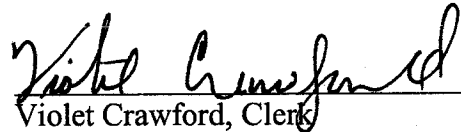
The parties have the right to seek judicial review of this Order. The Commission and the appropriate District Court of Appeal must receive notice of appeal within 30 days of the date this Order is filed with the Clerk of the Commission. Explanation of the right

to appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED this 3rd day of August, 2009.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Gilbert M. Singer, Panel Chairperson;
Commissioner Watson Haynes, II; and
Commissioner Patty Ball Thomas

Filed this 3rd day of August, 2009,
in Tallahassee, Florida.



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R. Bruce McKibben, 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 3rd day of August, 2009.

By: 
Clerk of the Commission
Florida Commission on Human Relations