

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED

2010 OCT 27 A 11:51

ROSEMARY CHAVEZ,

Petitioner,

v.

LOWE'S HOME CENTERS, INC.,

Respondent.

EEOC Case No. 15D200800721

EEOC Case No. 15D200900458

FCHR Case No. 2008-01998

FCHR Case No. 2009-01527

DOAH Case No. 09-0095

DOAH Case No. 09-5280

FCHR Order No. 10-083

COMMISSION OF
ADMINISTRATIVE
HEARINGS

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

Preliminary Matters

Petitioner Rosemary Chavez filed complaints of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2007), alleging that Respondent Lowe's Home Centers, Inc., committed unlawful employment practices on the bases of Petitioner's National Origin (Mexican American) and sex (female) by disciplining Petitioner, harassing Petitioner, and involuntarily transferring Petitioner (FCHR Case No. 2008-01998) and on the basis of retaliation by terminating Petitioner from employment (FCHR Case No. 2009-01527).

The allegations set forth in the complaints were investigated, and, on December 3, 2008, (FCHR Case No. 2008-01998), and, on August 27, 2009 (FCHR Case No. 2009-01527) the Executive Director issued his determinations finding in both instances that there was no reasonable cause to believe that an unlawful employment practice had occurred.

Petitioner filed Petitions for Relief from an Unlawful Employment Practice in both cases, and the cases were transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

The Division of Administrative Hearings consolidated the cases for the purposes of final hearing and the issuance of a Recommended Order.

An evidentiary hearing was held on April 12, 2010, in Gainesville, Florida, before Administrative Law Judge Lawrence P. Stevenson.

Judge Stevenson issued a Recommended Order of dismissal, dated August 31, 2010.

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

On or about September 15, 2010, Petitioner filed exceptions to the Administrative Law Judge's Recommended Order in a 3-page document entitled, "Petitioner Object to Recommended Order."

With regard to exceptions to Recommended Orders, the Administrative Procedure Act states, "The final order shall include an explicit ruling on each exception, but an agency need not rule on an exception that does not clearly identify the disputed portion of the recommended order by page number or paragraph, that does not identify the legal basis for the exception, or that does not include appropriate and specific citations to the record." Section 120.57(1)(k), Florida Statutes (2009); see, also, Bartolone v. Best Western Hotels, FCHR Order No. 07-045 (August 24, 2007).

A review of Petitioner's exceptions document suggests that it does not comply with this statutory provision.

However, it can be said, generally, that Petitioner excepts to the Administrative Law Judge's finding that no unlawful employment practice occurred in this matter.

The Commission has stated, "It is well settled that it is the Administrative Law Judge's function 'to consider all of the evidence presented and reach ultimate conclusions of fact based on competent substantial evidence by resolving conflicts, judging the credibility of witnesses and drawing permissible inferences therefrom. If the evidence presented supports two inconsistent findings, it is the Administrative Law Judge's role to decide between them.' Beckton v. Department of Children and Family Services, 21 F.A.L.R. 1735, at 1736 (FCHR 1998), citing Maggio v. Martin Marietta Aerospace, 9 F.A.L.R. 2168, at 2171 (FCHR 1986)." Barr v. Columbia Ocala Regional Medical Center, 22 F.A.L.R. 1729, at 1730 (FCHR 1999). Accord, Bowles v. Jackson County Hospital Corporation, FCHR Order No. 05-135 (December 6, 2005).

Based on the foregoing, Petitioner's exceptions are rejected.

Dismissal

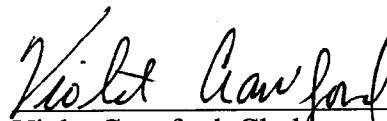
The Petitions for Relief and Complaints of Discrimination are DISMISSED with prejudice.

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 26th day of October, 2010.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Gilbert M. Singer, Panel Chairperson;
Commissioner Michael G. Keller; and
Commissioner Lizzette Romano

Filed this 26th day of October, 2010,
in Tallahassee, Florida.



Violet Crawford, Clerk
Commission on Human Relations
209 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:


Rosemary Chavez
1966 Southwest 69th Drive
Gainesville, FL 32607

Lowe's Home Centers, Inc.
c/o Thomas R. Brice, Esq.
McGuireWoods, LLP
50 North Laura Street, Suite 3300
Jacksonville, FL 32202

Lawrence P. Stevenson, 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 26th day of October, 2010.

By: 
Clerk of the Commission
Florida Commission on Human Relations

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

FILED
2010 SEP 15 A 11:30
DIVISION OF
ADMINISTRATIVE
HEARINGS

ROSEMARY CHAVEZ,)
)
 Petitioner,)
)
 vs.)
)
 LOWE'S HOME CENTERS, INC. ("LOWE'S"))
)
 Respondent,)

Case No. 09-5280
09-0095

PETITIONER OBJECT TO RECOMMENDED ORDER

I object to the recommended order from Lawrence P. Stevenson [Administrative Law Judge, Division of Administrative Hearings, The De Soto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060, (850) 488-9675, SUNCOM 278-9675, Fax Filing (850) 921-6847, www.doah.state.fl.us.]

Judge Stevenson said I had no proof. **The perpetrators did not have any proof either.** The perpetrators who retaliated, discriminated, assaulted, perjury, deceived, concealed, coerced, extorted, interfered, intimidated, assisted, harassed, etc. are Bill Edwards, Brian D. McKay, Charles E. Raulerson, Chris Savaage, John Wayne Edwards, Karla Daubney, Kelvin Ford, Larry Middleton, Lynette B. White, Lowe's Home Centers, Inc. [Corporate, Regional, District and Local], McGuireWoods LLP, Nancy A. Johnson, TALX UCM Services, Inc. UC eXpress (SM), Thomas R. Brice, Tom Bragdon, and Vince Schulz.

Mrs. White, Mr. Brice, Mr. Edwards, Mr. Raulerson who attended the hearing of April 12, 2010 are the perpetrators.

Judge Stevenson you did not take my words, however you did take Lowe's words. Lowe's did not have any proof. Only the perpetrators showed up for the hearing. I was expecting all the people Lowe's said were going to show up. How would you like it if nothing but lies were on record under your name? **I will be filing in Federal court.**

I did not receive any copy of any attachment from Lowe's recommended order from Mr. Brice. I did not receive any attachment from the Recommended Order from Judge Stevenson. Please make sure Judge Stevenson that you do get a copy of Ms. Daubney's deposition, because I need a copy of it too. **Intentionally Lowe's did not send you the deposition to you!**

*****This is an official notice that this document will be used in my autobiography book, movie, and for the government.**

DATED this 13th day of September, 2010, in Gainesville, Alachua County, Florida.



Rosemary Chavez
1966 SW 69th Drive
Gainesville, FL 32607
(352) 870-5381

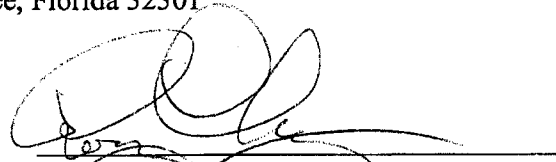
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of this letter was sent out by U.S. Mail this
13th day of September, 2010 to:

Thomas R. Brice and Nancy A. Johnson
50 North Laura Street, Suite 3300
Jacksonville, Florida 32202

Lawrence P. Stevenson
Administrative Law Judge
Division of Administrative Hearings
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1230 Apalachee Parkway
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