

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

MELVIN BUTLER,

Petitioner,

v.

BR WILLIAMS TRUCKING,

Respondent.

2010 JAN 14 A 10:37

DIVISION OF
ADMINISTRATIVE
HEARINGS

EEOC Case No. 15D200900059

FCHR Case No. 2008-02996

DOAH Case No. 09-1967

FCHR Order No. 10-004

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

Preliminary Matters

Petitioner Melvin Butler filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2007), alleging that Respondent BR Williams Trucking committed unlawful employment practices on the bases of Petitioner's race (Black) and retaliation. Specifically, Petitioner alleged that he was "retaliated against, given different terms and conditions, and terminated because of my race ([B]lack)."

The allegations set forth in the complaint were investigated, and, on March 25, 2009, 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 Tallahassee, Florida, on September 8, 2009, before Administrative Law Judge P. Michael Ruff.

Judge Ruff issued a Recommended Order of dismissal, dated October 29, 2009, finding, among other things, that Petitioner failed to appear at the September 8, 2009, hearing.

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

While the on-line docket of the Division of Administrative Hearings reflects that a 9-page transcript exists of the September 8, 2009, administrative hearing before the Administrative Law Judge, a transcript of the proceeding before the Administrative Law Judge was not filed with the Commission. In the absence of a transcript of the

proceeding before the Administrative Law Judge, the Recommended Order is the only evidence for the Commission to consider. See National Industries, Inc. v. Commission on Human Relations, et al., 527 So. 2d 894, at 897, 898 (Fla. 5th DCA 1988). Accord, Hall v. Villages of West Oaks HOA, FCHR 08-007 (January 14, 2008), Beach-Gutierrez v. Bay Medical Center, FCHR Order No. 05-011 (January 19, 2005), and Waaser v. Streit's Motorsports, FCHR Order No. 04-157 (November 30, 2004).

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 of the parties filed exceptions to the Administrative Law Judge's Recommended Order.

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 13th day of January, 2010.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Donna Elam, Panel Chairperson;
Commissioner Watson Haynes, II; and
Commissioner Mario M. Valle

Filed this 13th day of January, 2010,
in Tallahassee, Florida.