

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED

MARIE CLAIRE PEREZ,

Petitioner,

v.

MARKET SALAMANDER,

Respondent.

2009 DEC 15 A 10:42
EEOC Case No. NONE

DIVISION OF
ADMINISTRATIVE
HEARINGS
FCHR Case No. 2009-00527

DOAH Case No. 09-3478

FCHR Order No. 09-110

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

Preliminary Matters

Petitioner Marie Claire Perez 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 Market Salamander committed unlawful employment practices on the bases of Petitioner's sex (female) and age (DOB: 8-10-61), by harassing Petitioner and creating a hostile work environment, and on the basis of retaliation for complaining about discrimination by terminating Petitioner.

The allegations set forth in the complaint were investigated, and, on May 14, 2009, the Executive Director issued an "Amended Determination: No Jurisdiction" concluding that the Commission did not have jurisdiction of the complaint because the complaint was not timely filed.

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 at sites in Tallahassee and West Palm Beach, Florida, on August 17, 2009, before Administrative Law Judge J. D. Parrish, on the issue of whether the complaint was timely filed.

Judge Parrish issued a Recommended Order of Dismissal, dated September 29, 2009, finding that the complaint was not timely filed.

The Commission panel designated below considered the record of this matter and determined the action to be taken on the Recommended Order of Dismissal.

Findings of Fact

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 of Dismissal.

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 14th day of December, 2009.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Billy Whitefox Stall, Panel Chairperson;
Commissioner Elena Flom; and
Commissioner Lizzette Gamero

Filed this 14th day of December, 2009,
in Tallahassee, Florida.



Violet Crawford, Clerk
Commission on Human Relations
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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 14th day of December, 2009.

By: 

Clerk of the Commission
Florida Commission on Human Relations