

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED

ROBERT FOSTER COWDEN,

Petitioner,

v.

JOSEPH DIFIGLIO, MANAGER AND
PERRY LEE, OWNER,

Respondents.

HUD Case No. 04-09-0809-8

FCHR Case No. 2009-10205

DOAH Case No. 09-3832

FCHR Order No. 09-115

2009 DEC 15 A 10:43
DIVISION OF
ADMINISTRATIVE
HEARINGS

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

This matter is before the Commission for consideration of the Order Relinquishing Jurisdiction and Closing File, dated October 8, 2009, issued in the above-styled matter by Administrative Law Judge John G. Van Laningham.

Findings of Fact and Conclusions of Law

Judge Van Laningham's order reflects that Petitioner failed to appear at the scheduled administrative hearing in the matter. Consequently, Judge Van Laningham concluded, among other things, that Petitioner failed to establish a prima facie case of discrimination and that jurisdiction should be relinquished to the Commission for further proceedings, "including the issuance of a final order."

Commission panels have concluded that when a Petitioner fails to appear at the scheduled administrative hearing in their case, they fail to meet their burden of proof, and the Petition for Relief should be dismissed. See, e.g., Scott v. Two Men and a Truck, FCHR Order No. 09-009 (January 27, 2009), Enzor v. Sandco, Inc., FCHR Order No. 08-048 (July 29, 2008), Rodriguez v. Center Point Health and Rehab, FCHR Order No. 08-001 (January 14, 2008), West v. Sembler Corporation, d/b/a Bay Walk, FCHR Order No. 07-037 (June 15, 2007), Martinez v. KJC Enterprises, d/b/a Plantation Island Resort, FCHR Order No. 07-028 (April 20, 2007), Chaney, et al. v. Robert Buckner & Associates, FCHR Order No. 06-092 (November 13, 2006), and Prek v. Workforce Central Florida, FCHR Order No. 06-079 (September 18, 2006).

We note that the Order Relinquishing Jurisdiction and Closing File specifically finds that Petitioner was properly notified of the final hearing.

We adopt the Administrative Law Judge's finding as to the nonappearance of Petitioner and conclude that Petitioner has failed to carry his burden of proof.

Exceptions

None of the parties filed exceptions to the Administrative Law Judge's Order Relinquishing Jurisdiction and Closing File.

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 of 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
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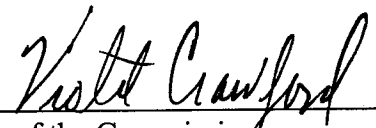
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John G. Van Laningham, Administrative Law Judge, DOAH

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