

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

DOUGLAS FOREMAN, JR., 2010 MAR 18 A 11: 59 EEOC Case No. NONE

Petitioner,

DIVISION OF
ADMINISTRATIVE
HEARINGS

FCHR Case No. 2009-01306

v.

DOAH Case No. 09-4807

DAYTONA IHOP, INC.,

FCHR Order No. 10-024

Respondent.

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

Preliminary Matters

Petitioner Douglas Foreman, Jr., 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 Daytona IHOP, Inc., committed unlawful employment practices on the basis of Petitioner's race (Black) by subjecting Petitioner to a hostile work environment, by refusing to promote Petitioner, and by terminating Petitioner from employment.

The allegations set forth in the complaint were investigated, and, on August 6, 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 by video teleconference at sites in Daytona Beach and Tallahassee, Florida, on November 13, 2009, before Administrative Law Judge Suzanne F. Hood.

Judge Hood issued a Recommended Order of dismissal, dated December 31, 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

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 Order No. 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 17th day of March, 2010.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Gilbert M. Singer, Panel Chairperson;
Commissioner Anice R. Prosser; and
Commissioner Mario M. Valle

Filed this 17th day of March, 2010,
in Tallahassee, Florida.



Violet Crawford, Clerk
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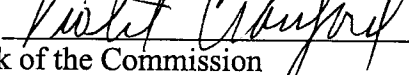
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Suzanne F. Hood, Administrative Law Judge, DOAH

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 17th day of March, 2010.

By: 
Clerk of the Commission
Florida Commission on Human Relations