

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

KAREN LEE KRASON,)
)
 Petitioner,)
)
 vs.) Case No. 09-5222
)
 COMMUNITY HOUSING INITIATIVE,)
 INC.,)
)
 Respondent.)
 _____)

RECOMMENDED ORDER OF DISMISSAL

A formal hearing was scheduled to be held in this cause on December 9, 2009, before J. D. Parrish, a designated Administrative Law Judge of the Division of Administrative Hearings, in Viera, Florida, at 9:00 a.m. A Notice of Hearing was provided to all parties at their addresses of record.

APPEARANCES

For Petitioner: No Appearance

For Respondent: Nicole Tenpenny, Executive Director
Community Housing Initiative, Inc.
Post Office Box 410522
Melbourne, Florida 32941-0522

STATEMENT OF THE ISSUE

The issue in this case is whether Respondent, Community Housing Initiative, Inc. (Respondent), committed a discriminatory housing practice against Petitioner, Karen Lee Krason (Petitioner), in violation of Chapter 760, Florida Statutes (2008).

PRELIMINARY STATEMENT

On August 5, 2009, the Florida Commission on Human Relations (Commission) issued a Notice of Determination of No Cause regarding Petitioner's complaint against Respondent. Thereafter, Petitioner timely filed a Petition for Relief that was transmitted to the Division of Administrative Hearings (DOAH) for formal proceedings on September 23, 2009. Petitioner alleged that she had been denied assistance based upon her race and that Respondent, in denying her request, had violated provisions of Florida law related to unlawful housing practices.

The case was scheduled for formal hearing on December 9, 2009, and notice of the hearing was provided to all parties at their addresses of record. On December 7, 2009, Petitioner sought a continuance of the hearing. The request was deemed untimely and insufficient. An Order Denying Continuance of Final Hearing was entered and all parties were advised by telephone of the ruling. When contacted, Petitioner acknowledged that the hearing would continue as scheduled. At the noticed time and place for the hearing, Petitioner did not appear. After waiting approximately thirty minutes for Petitioner to appear or to contact DOAH to explain the delay in appearing, the hearing record was closed after Nicole Tenpenny spoke on behalf of Respondent. A transcript of the proceeding will not be filed in this cause.

FINDINGS OF FACT

1. On or about June 11, 2009, Petitioner filed a Housing Discrimination Complaint with the Commission.

2. Pursuant to the Commission's procedure, an investigation of the matter was completed that resulted in a Notice of Determination of No Cause. Essentially, the Commission found that based upon the allegations raised by Petitioner there was no cause from which it could be found that Respondent had violated the Florida Fair Housing Act.

3. Thereafter, Petitioner elected to file a Petition for Relief to challenge the determination and to seek relief against Respondent for the alleged violation. The Commission then forwarded the matter to DOAH for formal proceedings.

4. DOAH issued a Notice of Hearing that was provided to all parties at their addresses of record. The postal service did not return the notices as undelivered. It is presumed the parties received notice of the hearing date, time, and location. Petitioner did not appear at the hearing.

CONCLUSIONS OF LAW

5. DOAH has jurisdiction over the parties to, and the subject matter of, these proceedings. §§ 120.569 and 120.57(1), Fla. Stat. (2009).

6. Under the Florida Fair Housing Act (the act) it is unlawful to discriminate in financing, sale or rental of housing.

7. In this matter, Petitioner bears the initial burden of proof to establish a prima facie case of discrimination by a preponderance of the evidence. Generally, once a complainant establishes membership in a protected class and proof that he or she was treated differently than others not in the class, the burden of proof then shifts requiring the offending party to articulate a nondiscriminatory motive or objective for the alleged discriminatory conduct. If, however, the complainant (in this case the Petitioner) fails to establish a prima facie case of discrimination, the matter ends. See National Industries, Inc. v. Commission on Human Relations, 527 So. 2d 894 (Fla. 5th DCA 1988).

8. In light of Petitioner's failure to present evidence, she has failed to meet her initial burden of proof.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that Florida Commission on Human Relations enter a final order dismissing Petitioner's claim of discrimination.

DONE AND ENTERED this 4th day of February, 2010, in
Tallahassee, Leon County, Florida.



J. D. PARRISH
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 4th day of February, 2010.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.