

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

THOMAS BYRD,

Petitioner,

v.

LEWARE CONSTRUCTION CO., INC.,

Respondent.

EEOC Case No. 15D200900508

FCHR Case No. 2009-01655

DOAH Case No. 09-5546

FCHR Order No. 10-042

FILED
2009 APR 28 A 11:20
DIVISION OF
ADMINISTRATIVE
HEARINGS

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

Preliminary Matters

Petitioner Thomas Byrd 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 Leware Construction Co., Inc., committed unlawful employment practices on the bases of Petitioner's perceived disability and age (DOB: 11-11-58) by paying Petitioner \$18 per hour instead of \$22 per hour, by not paying Petitioner a \$70 a week per diem paid to other employees, and by terminating Petitioner from employment.

The allegations set forth in the complaint were investigated, and, on September 30, 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 Fort Myers and Tallahassee, Florida, on January 13, 2010, before Administrative Law Judge Daniel Manry.

Judge Manry issued a Recommended Order of dismissal, dated March 2, 2010.

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

We find the Administrative Law Judge's findings of fact to be supported by competent substantial evidence.

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

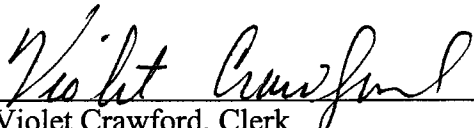
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 27th day of April, 2010.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Gilbert M. Singer, Panel Chairperson;
Commissioner Lizzette Gamero; and
Commissioner Patty Ball Thomas

Filed this 27th day of April, 2010,
in Tallahassee, Florida.



Violet Crawford, Clerk
Commission on Human Relations
2009 Apalachee Parkway, Suite 200
Tallahassee, FL 32301
(850) 488-7082

NOTICE TO COMPLAINANT / PETITIONER

As your complaint was filed under Title VII of the Civil Rights Act of 1964, which is enforced by the U.S. Equal Employment Opportunity Commission (EEOC), you have the right to request EEOC to review this Commission's final agency action. To secure a "substantial weight review" by EEOC, you must request it in writing within 15 days of your receipt of this Order. Send your request to Miami District Office (EEOC), One Biscayne Tower, 2 South Biscayne Blvd., Suite 2700, 27th Floor, Miami, FL 33131.

Copies furnished to:


Thomas Byrd
c/o Gary Lee Printy, Esq.
c/o Stephen E. Rengel, Esq.
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Leware Construction Co., Inc.
c/o William R. Mabile, III, Esq.
Andrews, Crabtree, Knox & Andrews, LLP
1558-1 Village Square Boulevard
Tallahassee, FL 32309

Daniel Manry, 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 27th day of April, 2010.

By: 
Clerk of the Commission
Florida Commission on Human Relations