

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

ANDREA CRUMP,)
)
 Petitioner,)
)
 vs.) Case No. 10-1849
)
 THE MAJESTIC TOWER)
 AT BAL HARBOUR,)
)
 Respondent.)
 _____)

RECOMMENDED ORDER

Pursuant to notice, a hearing was conducted in this case on July 2, 2010, by video teleconference at sites in Miami and Tallahassee, Florida, before Stuart M. Lerner, a duly-designated Administrative Law Judge of the Division of Administrative Hearings (DOAH).

APPEARANCES

For Petitioner: No appearance

For Respondent: Benjamin M. Esco, Esquire
Cole, Scott & Kissane, P.A.
1645 Palm Beach Lakes Boulevard
Second Floor
West Palm Beach, Florida 33401

STATEMENT OF THE ISSUE

Whether Respondent committed the discriminatory housing practice alleged in Petitioner's Housing Discrimination Complaint and, if so, what relief should Petitioner be granted.

PRELIMINARY STATEMENT

Petitioner filed a Housing Discrimination Complaint (Complaint) against Respondent in January 2010. On March 23, 2010, the Florida Commission on Human Relations (Commission), through its Executive Director, issued a Determination of No Cause, advising that, following an investigation, the Commission had "determined that reasonable cause d[id] not exist to believe that a discriminatory housing practice ha[d] occurred."

On April 5, 2010, Petitioner filed with the Commission a Petition for Relief (Petition). The Commission transmitted the Petition to DOAH on April 8, 2010.

The final hearing in the instant case was scheduled by video teleconference at sites in Miami and Tallahassee for July 2, 2010, commencing at 9:00 a.m. Petitioner and Respondent were provided with written notice of the scheduled hearing in accordance with Section 120.569(2)(b), Florida Statutes. Such notice was in the form of a Notice of Hearing by Video Teleconference mailed on April 20, 2010, to Petitioner and to Respondent's counsel of record, Benjamin Esco, Esquire.

Respondent appeared at the hearing, which was held as scheduled on July 2, 2010, through its counsel of record, Mr. Esco. Petitioner, on the other hand, did not make an appearance at the hearing, either in person or through counsel or any other authorized representative.

After waiting approximately 50 minutes for Petitioner to appear, and not having heard from her, the undersigned went on the record. Mr. Esco, on behalf of Respondent, declined to present any evidence, arguing, persuasively, that it was Petitioner, not Respondent, who had the burden of proof and that therefore Petitioner's failure to appear at the hearing and offer evidence in support of her allegations of discrimination should result in the Commission's dismissing Petitioner's Complaint and Petition. The undersigned indicated that he agreed and that he would issue an order recommending that the Commission take such action. The hearing was thereupon concluded.

FINDINGS OF FACT

1. Because no evidence was offered at the final hearing held in the instant case, no findings of fact are made.

CONCLUSIONS OF LAW

2. DOAH has jurisdiction over the subject matter of this proceeding and of the parties hereto pursuant to Chapter 120, Florida Statutes.

3. Florida's Fair Housing Act (Act) is codified in Sections 760.20 through 760.37, Florida Statutes.

4. Among other things, the Act makes certain acts "discriminatory housing practices" and gives the Commission the authority, if it finds (following an administrative hearing

conducted by an administrative law judge) that such a "discriminatory housing practice" has occurred, to issue an order "prohibiting the practice" and providing "affirmative relief from the effects of the practice, including quantifiable damages and reasonable attorney's fees and costs."

§ 760.35(3)(b), Fla. Stat.

5. In the instant case, Petitioner has claimed, in her Complaint and Petition, that she was the victim of a discriminatory housing practice committed by Respondent.

6. Pursuant to Section 760.34(5), Florida Statutes, it was Petitioner's burden to prove at the final hearing held in this matter that this discriminatory housing practice in fact occurred.

7. Petitioner, however, failed to make an appearance at the hearing and present any evidence in support of her allegations of discrimination, despite having been afforded proper notice of the hearing.

8. Accordingly, Petitioner's Complaint and Petition must be dismissed.

RECOMMENDATION

Based upon the foregoing, it is hereby

RECOMMENDED that the Commission issue a Final Order dismissing Petitioner's Complaint and Petition.

DONE AND ENTERED this 6th day of July, 2010, in
Tallahassee, Leon County, Florida.



STUART M. LERNER
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 6th day of July, 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.