

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

RUBY JOHNSON,

HUD Case No. 04-10-0809-8

Petitioner,

FCHR Case No. 2010H0267

v.

DOAH Case No. 10-5015

CANONGATE CONDOMINIUM  
APARTMENTS NO. ONE INC.,

FCHR Order No. 11-082

Respondent.

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

Preliminary Matters

Petitioner Rubye Johnson filed a housing discrimination complaint pursuant to the Fair Housing Act, Sections 760.20 - 760.37, Florida Statutes (2009), alleging that Respondent, Canongate Condominium Apartments No. One Inc., committed a discriminatory housing practice on the basis of Petitioner's race (African American) by not allowing Petitioner to rent out her unit.

The allegations set forth in the complaint were investigated, and, on June 11, 2010, the Executive Director issued a determination finding that there was no reasonable cause to believe that a discriminatory housing practice had occurred.

Petitioner filed a Petition for Relief from a Discriminatory Housing 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 Miami and Tallahassee, Florida, on February 21, 2011, before Administrative Law Judge Patricia Hart.

Due to Judge Hart's unavailability, the case was assigned to Administrative Law Judge Cathy M. Sellers to prepare the Recommended Order for the case, and Judge Sellers issued a Recommended Order of dismissal, dated August 9, 2011.

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 note that one of the elements for the test for establishing a prima facie case of discrimination set out by the Administrative Law Judge is a showing that "Respondent allowed similarly situated white owners to rent their units." Recommended Order, ¶ 41. In our view, this element would be more appropriately stated, "Respondent allowed similarly situated owners of a race different than that of Petitioner to rent their units." Nevertheless, we do not conclude that the statement of this prima facie case test element as set out by the Administrative Law Judge is error, since Petitioner specifically alleged in her Housing Discrimination Complaint that "white" owners were allowed to rent out their units while she was not allowed to rent out her unit.

With this comment, 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 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 to appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED this 3<sup>rd</sup> day of November, 2011.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Donna Elam, Panel Chairperson;  
Commissioner Gayle Cannon; and  
Commissioner Billy Whitefox Stall

Filed this 3<sup>rd</sup> day of November, 2011,  
in Tallahassee, Florida.

\_\_\_\_\_/s/\_\_\_\_\_  
Violet Crawford, Clerk  
Commission on Human Relations  
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Cathy M. Sellers, 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 3<sup>rd</sup> day of November, 2011.

By: \_\_\_\_\_/s/\_\_\_\_\_  
Clerk of the Commission  
Florida Commission on Human Relations