

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

WILLY FILS LOUIS-CHARLES,)
)
 Petitioner,)
)
vs.) Case No. 10-9206
)
MIAMI SCIENCE MUSEUM,)
)
 Respondent.)

)

RECOMMENDED ORDER OF DISMISSAL

Pursuant to notice, a hearing was held on Miami Science Museum's Motion for Summary Judgment on December 8, 2010. The hearing was conducted before Administrative law Judge Eleanor M. Hunter by video teleconference between sites in Miami and Tallahassee, Florida.

APPEARANCES

For Petitioner: James Jean-Francois, Esquire
Law Offices of James Jean-Francois, PA
6100 Hollywood Boulevard, Suite 211
Hollywood, Florida 33024

For Respondent: Lacey Hofmeyer, Esquire
Danielle Garno, Esquire
Greenberg Traurig
1221 Brickell Avenue
Miami, Florida 33131

STATEMENT OF THE ISSUE

The issue in this case is whether Petitioner timely filed a complaint of discrimination in accordance with the provisions of Chapter 760, Florida Statutes (2010).

PRELIMINARY STATEMENT

On September 16, 2010, the Florida Commission on Human Relations transmitted to the Division of Administrative Hearings a Petition for Relief filed by Petitioner, Willy Fils Louis-Charles. The petition alleged that Respondent, Miami Science Museum, had committed an unlawful employment practice.

The case was scheduled for a final hearing on December 10, 2010. On November 2, 2010, Respondent filed Miami Science Museum's Motion for Summary Judgment and Incorporated Memorandum of Law. Having received no response within the period of time set in Florida Administrative Code Rule 28-106.204, the undersigned issued an Order to Show Cause why a recommendation to dismiss the Petition for Relief should not be forwarded to the Florida Commission on Human Relations. In response, on November 24, 2010, Petitioner filed Petitioner's Response to Sua Sponte Order to Show Cause; Notice of Filing: Technical Assistance Questionnaire with E-Filing Date of 2-18-2010; and Notice of Supplemental Authority and of Intent to Rely Thereon. On December 1, 2010, Respondent filed a Reply Brief in Support

of its Motion for Summary Final Order and Petitioner filed Petitioner's Affidavit. The parties also filed a Joint Motion to Continue Final Hearing, and the final hearing was re-scheduled for March 1, 2011. On December 2, 2010, the Motion hearing by video teleconference was scheduled for December 8, 2010.

At the hearing, the parties presented the arguments of counsel but no witnesses or exhibits, other than the affidavit of the Petitioner that was previously filed.

FINDINGS OF FACT

At the hearing, the parties stipulated to the facts numbered 1-4, as follows:

1. Petitioner was terminated from his employment with Respondent on March 13, 2009.
2. Petitioner's deadline for filing his complaint with the Florida Commission on Human Relations (FCHR) was March 14, 2010.
3. Petitioner emailed a Technical Assistance Questionnaire to the FCHR on February 18, 2010.
4. Petitioner signed an Employment Complaint of Discrimination and dated it March 24, 2010.
5. In addition to the stipulated facts, the undersigned noted that the Complaint is stamped received by the FCHR at 10:48 a.m. on March 25, 2010.

CONCLUSIONS OF LAW

6. The Division of Administrative hearings has jurisdiction over the parties to and subject matter of this proceeding. §§ 120.569 and 120.57(1), Fla. Stat. (2010).

7. Under Section 760.11(1), Florida Statutes, any person aggrieved by an unlawful employment practice may file a complaint with the FCHR within 365 days after the alleged violation. Failure to do so bars the claim. See Greene v. St. Petersburg Motor Club v. Cook, 567 So. 2d 488 (Fla. 2nd DCA 1990).

8. The period for filing the claim starts from the date of the last act of alleged discrimination (in this case, March 13, 2009, the date of termination). See Maggio v. Fla. Department of Labor and Employment Security, 899 So. 2d 1074 (Fla. 2005).

9. Therefore, pursuant to Florida law the Petitioner was required to file his complaint within 365 days, or on or before March 14, 2010. He did not. See Marie Claire Perez v. Market Salamander, Case No. 09-3478, 2009 Fla.Div.Adm.Hear. LEXIS 710 (R.O. 9/29/09; F.O. 12/14/09); § 760.11(1), Fla. Stat.; and Fla. Admin. Code R. 60Y-5.001.

10. Accordingly, this case should be dismissed as untimely filed.

RECOMMENDATION

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

DONE AND ENTERED this 10th day of December, 2010, in Tallahassee, Leon County, Florida.



ELEANOR M. HUNTER
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 10th day of December, 2010.

COPIES FURNISHED:

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NOTICE OF RIGHTS 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.