

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED

EDWARD RHOADES,

Petitioner,

v.

WERNER ENTERPRISES, INC.,

Respondent.

2011 JUN 29 A 11:05

DIVISION OF
ADMINISTRATIVE
HEARINGS

EEOC Case No. 15D200900630

FCHR Case No. 2009-02077

DOAH Case No. 10-9220

FCHR Order No. 11-053

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

Preliminary Matters

Petitioner Edward Rhoades 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 Werner Enterprises, Inc., committed an unlawful employment practice on the basis of Petitioner's disability / perceived disability by failing to hire Petitioner for employment.

The allegations set forth in the complaint were investigated, and, on April 16, 2010, 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 Tallahassee and Gainesville, Florida, on March 3, 2011, before Administrative Law Judge James H. Peterson, III.

Judge Peterson issued a Recommended Order of dismissal, dated April 14, 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 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

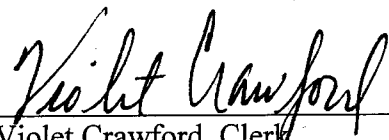
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 28th day of June, 2011.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Mario M. Valle, Panel Chairperson;
Commissioner Lizzette Romano; and
Commissioner Darcell Streeter

Filed this 28th day of June, 2011,
in Tallahassee, Florida.



Violet Crawford, Clerk
Commission on Human Relations
2009 Apalachee Parkway, Suite 100
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:

Edward Rhoades
7470 Northwest 167th Place
Trenton, FL 32693

Swift Transportation
c/o Ignacio J. Garcia, Esq.
Ogletree, Deakins, Nash, Smoak
& Stewart, P.C.
100 North Tampa Street, Suite 3600
Tampa, FL 33602

James H. Peterson, III, 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 28th day of June, 2011.

By: *Violet Crawford*
Clerk of the Commission
Florida Commission on Human Relations