

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

GAYLE WILBURN,

Petitioner,

v.

CITY OF PENSACOLA, DEPARTMENT
OF HOUSING,

Respondent.

2011 JUN 29 A 11:06

DIVISION OF
ADMINISTRATIVE
HEARINGS

HUD Case No. 04-10-1779-8

FCHR Case No. 2011H0106

DOAH Case No. 11-0041

FCHR Order No. 11-055

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

This matter is before the Commission for consideration of the Recommended Order of Dismissal, dated April 15, 2011, issued in the above-styled matter by Administrative Law Judge Diane Cleavinger.

Findings of Fact and Conclusions of Law

Judge Cleavinger's order reflects that Petitioner failed to appear at the scheduled administrative hearing in the matter. Specifically, Judge Cleavinger's order states that based on Petitioner's failure to appear, "...Petitioner has failed to meet her burden of proof to support her claim and the Petition for Relief should be dismissed." Consequently, Judge Cleavinger recommended the Commission issue a final order dismissing the Petition for Relief.

Commission panels have concluded that when a Petitioner fails to appear at the scheduled administrative hearing in their case, they fail to meet their burden of proof, and the Petition for Relief should be dismissed. See, e.g., Patterson v. Panama City Housing Authority, FCHR Order No. 11-001 (January 13, 2011), Crump v. The Majestic Tower at Bal Harbour, FCHR Order No. 10-072 (September 21, 2010), Bermudez v. Lake County Housing Authority, FCHR Order No. 10-041 (April 27, 2010), Cowden v. DiFiglio, et al., FCHR Order No. 09-115 (December 14, 2009), Scott v. Two Men and a Truck, FCHR Order No. 09-009 (January 27, 2009), Enzor v. Sandco, Inc., FCHR Order No. 08-048 (July 29, 2008), Rodriguez v. Center Point Health and Rehab, FCHR Order No. 08-001 (January 14, 2008), West v. Sembler Corporation, d/b/a Bay Walk, FCHR Order No. 07-037 (June 15, 2007), Martinez v. KJC Enterprises, d/b/a Plantation Island Resort, FCHR Order No. 07-028 (April 20, 2007), Chaney, et al. v. Robert Buckner & Associates, FCHR Order No. 06-092 (November 13, 2006), and Prek v. Workforce Central Florida, FCHR Order No. 06-079 (September 18, 2006).

We adopt the Administrative Law Judge's finding as to the nonappearance of Petitioner and conclude that Petitioner has failed to carry her burden of proof.

Exceptions

Neither of the parties filed exceptions to the Administrative Law Judge's Recommended Order of Dismissal.

Dismissal

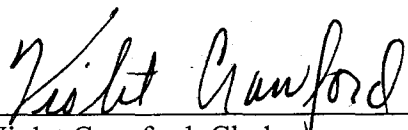
The Petition for Relief and Housing Discrimination Complaint are DISMISSED with prejudice.

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 of 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

Copies furnished to:

Gayle Wilburn
1006 East Johnson Avenue, # 4
Pensacola, FL 32514

City of Pensacola, Department of Housing
c/o Robert E. Larkin, Esq.
Allen, Norton & Blue, P.A.
906 North Monroe Street
Tallahassee, FL 32303

Diane Cleavinger, 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