

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

JAMES PATRICK OVERLY, II,

EEOC Case No. 15D201100134

Petitioner,

FCHR Case No. 2011-00324

v.

DOAH Case No. 11-4167

EATON CORP.,

FCHR Order No. 12-012

Respondent.

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

Preliminary Matters

Petitioner James Patrick Overly, II, filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2010), alleging that Respondent Eaton Corp. committed unlawful employment practices on the basis of Petitioner's disability / handicap by failing to provide reasonable accommodations.

The allegations set forth in the complaint were investigated, and, on July 11, 2011, 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 Orlando and Tallahassee, Florida, on November 2 and 3, 2011, before Administrative Law Judge Lynne A. Quimby-Pennock.

Judge Quimby-Pennock issued a Recommended Order of dismissal, dated January 24, 2012.

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

Petitioner filed exceptions to the Administrative Law Judge's Recommended Order in a document entitled "Petitioner's Exceptions to Recommended Order," received by the Commission on or about February 7, 2012.

The document excepts to Recommended Order paragraph numbers 20, 49, and 54. Each exception takes issue with the finding that Petitioner failed to apply for any positions posted on Eatonjobs.com, and in each instance, the document proposes alternative language for the finding.

The Commission has stated, "It is well settled that it is the Administrative Law Judge's function 'to consider all of the evidence presented and reach ultimate conclusions of fact based on competent substantial evidence by resolving conflicts, judging the credibility of witnesses and drawing permissible inferences therefrom. If the evidence presented supports two inconsistent findings, it is the Administrative Law Judge's role to decide between them.' Beckton v. Department of Children and Family Services, 21 F.A.L.R. 1735, at 1736 (FCHR 1998), citing Maggio v. Martin Marietta Aerospace, 9 F.A.L.R. 2168, at 2171 (FCHR 1986)." Barr v. Columbia Ocala Regional Medical Center, 22 F.A.L.R. 1729, at 1730 (FCHR 1999). Accord, Bowles v. Jackson County Hospital Corporation, FCHR Order No. 05-135 (December 6, 2005) and Eaves v. IMT-LB Central Florida Portfolio, LLC, FCHR Order No. 11-029 (March 17, 2011).

In our view, the excepted-to findings are supported by the testimony of Brooke Yost, HR Manager for Respondent's Power Quality Field Service Organization, as set out on page 424 of the hearing transcript.

Petitioner's exceptions are rejected.

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 27th day of March, 2012.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Gilbert M. Singer, Panel Chairperson;
Commissioner James Johns; and
Commissioner Lizzette Romano

Filed this 27th day of March, 2012,
in Tallahassee, Florida.

_____/s/_____
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:

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Lynne A. Quimby-Pennock, 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 27th day of March, 2012.

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