

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

REGINALD BURDEN,

Petitioner,

v.

WINN-DIXIE CORPORATION,

Respondent.

DONALD ROCKHOLD,

Petitioner,

v.

WINN-DIXIE CORPORATION,

Respondent.

EEOC Case No. NONE

FCHR Case No. 2011-00703

DOAH Case No. 11-5203

FCHR Order No. 13-057

EEOC Case No. NONE

FCHR Case No. 2011-00705

DOAH Case No. 11-5204

FCHR Order No. 13-057

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

Preliminary Matters

Petitioner Reginald Burden filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2009), alleging that Respondent Winn-Dixie Corporation committed an unlawful employment practice on the bases of Petitioner Burden's sex (male) and race (not specified in complaint), and on the basis of retaliation, by discharging Petitioner Burden from employment.

The allegations set forth in the complaint were investigated, and, on July 26, 2011, the Executive Director issued a determination finding that there was no reasonable cause to believe that an unlawful employment practice had occurred.

Petitioner Donald Rockhold filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, 760.01 - 760.11, Florida Statutes (2009), alleging that Respondent Winn-Dixie Corporation committed an unlawful employment practice on the bases of Petitioner Rockhold's sex (male) and race (not specified in complaint), and on the basis of retaliation, by discharging Petitioner Rockhold from employment.

The allegations set forth in the complaint were investigated, and, on July 26, 2011, the Executive Director issued a determination finding that there was no reasonable cause to believe that an unlawful employment practice had occurred.

Petitioners filed Petitions for Relief and the cases were transmitted to the Division of Administrative Hearings for the conduct of formal proceedings.

The Division of Administrative Hearings consolidated the cases for the purposes of final hearing and the issuance of a Recommended Order.

An evidentiary hearing was held in Jacksonville, Florida, on July 27, 2012, October 17, 2012, December 12-14, 2012, and January 23, 2013, before Administrative Law Judge W. David Watkins. (The July and October hearing days were conducted by video teleconference, and the remaining hearing days were conducted in-person.)

Judge Watkins issued a Recommended Order of dismissal, dated June 17, 2013.

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

None of the parties filed exceptions to the Administrative Law Judge's Recommended Order.

Dismissal

The Petitions for Relief and Complaints 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 19th day of August, 2013.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Gilbert M. Singer, Panel Chairperson;
Commissioner Onelia Fajardo-Garcia; and
Commissioner Michell Long

Filed this 19th day of August, 2013,
in Tallahassee, Florida.

_____/s/_____
Violet Crawford, Clerk
Commission on Human Relations
2009 Apalachee Parkway, Suite 100
Tallahassee, FL 32301
(850) 488-7082

Copies furnished to:

Reginald Burden
Donald Rockhold
c/o Nah-Deh Simmons, Esq.
The Gregory Law Firm
Post Office Box 41083
Jacksonville, FL 32203

Winn-Dixie Corporation
c/o Karen Ibach Bowden, Esq.
Taylor, Day, Grimm, Boyd and Johnson
50 North Laura Street, Suite 3500
Jacksonville, FL 32202

W. David Watkins, 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 19th day of August, 2013.

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