

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

NATALIE GOLDENBERG,

Petitioner,

v.

DEPARTMENT OF CORRECTIONS,

Respondent.

EEOC Case No. 510201105905

FCHR Case No. 2012-00488

DOAH Case No. 12-1524

FCHR Order No. 12-051

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

This matter is before the Commission for consideration of the Recommended Order of Dismissal, dated August 3, 2012, issued in the above-styled matter by Administrative Law Judge Elizabeth W. McArthur.

Findings of Fact and Conclusions of Law

Judge McArthur's order reflects that Petitioner failed to appear at the scheduled administrative hearing in the case. Specifically, Judge McArthur's order states, "...Petitioner belatedly communicated her intent to withdraw her request for administrative hearing, too late for the scheduled hearing to be cancelled. Petitioner did not appear at the hearing to attempt to prove the allegations in her petition. Petitioner has failed to meet her burden of proof to establish her claim that Respondent engaged in unlawful employment practices." Consequently, the order recommends that 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., Dotson v. Department of Financial Services, FCHR Order No. 11-034 (April 13, 2011), 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 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 of appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED this 17th day of September, 2012.

FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Gilbert M. Singer, Panel Chairperson;
Commissioner Onelia Fajardo; and
Commissioner Michael Keller

Filed this 17th day of September, 2012,
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:

Natalie Goldenberg
Post Office Box 7388
Fort Myers, FL 33911

Department of Corrections
c/o Todd Evan Studley, Esq.
Assistant General Counsel
501 South Calhoun Street
Tallahassee, FL 32399-2500

Elizabeth W. McArthur, 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 17th day of September, 2012.

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