

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

DELORES BOATWRIGHT,

EEOC Case No. 15D201200821

Petitioner,

FCHR Case No. 2012-02222

v.

DOAH Case No. 13-2262

PALM BEACH HEALTH DEPARTMENT,

FCHR Order No. 14-042

Respondent.

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

Preliminary Matters

Petitioner DeLores Boatwright filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2011), alleging that Respondent Palm Beach Health Department committed unlawful employment practices on the bases of Petitioner's disability and age (DOB: 12-25-48), respectively, by failing to provide Petitioner a reasonable accommodation for her disability and by asking Petitioner when she was going to retire.

The allegations set forth in the complaint were investigated, and, on May 21, 2013, the Executive Director issued a 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 West Palm Beach and Tallahassee, Florida, on May 14 and 15, 2014, before Administrative Law Judge Claude B. Arrington.

Judge Arrington issued a Recommended Order of dismissal, dated August 1, 2014.

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 received by the Commission on or about August 15, 2014.

Petitioner's exceptions document contains exceptions to the following Recommended Order numbered paragraphs: 3, 8, 10, 11, 12, 13, 14, 15, 16, 21, 22, 25, 26, 27, 28, 29, 30, 32, 33, 34, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54 and 55.

In our view, these exceptions take issue with facts found (10, 13, 14, 15, 22, 32, 33), facts not found (16), inferences drawn from the evidence presented (3, 10, 14), or simply present argument / explanation / comment (8, 11, 12, 13, 15, 16, 21, 25, 26, 27, 28, 29, 30, 32, 34, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55).

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).

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 9 day of October, 2014.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Michael Keller, Panel Chairperson;
Commissioner Derick Daniel; and
Commissioner Donna Elam

Filed this 9 day of October, 2014,
in Tallahassee, Florida.

Cheyenne Castilla
Clerk
Commission on Human Relations
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Claude B. Arrington, 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 9 day of October, 2014.

By: Cheyenne Castilla
Clerk of the Commission
Florida Commission on Human Relations