

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

KENAN TUZLAK,

Petitioner,

vs.

Case No. 13-3257

SUNCOAST ARCHITECTURE AND
ENGINEERING, LLC,

Respondent.

_____ /

FINAL ORDER ON REMAND

On February 3, 2015, the Appellate Division of the Circuit Court for the Sixth Judicial Circuit, in and for Pinellas County, Florida, entered an Opinion on Rehearing^{1/} in this case. The Opinion directed the following:

The Petition for Writ of Certiorari is granted to the extent this matter is remanded to the Administrative Law Judge to review the evidence and testimony presented at the November 19, 2013, hearing. The ALJ shall determine whether "a reasonable employee" would have found the December 21, 2012 letter "materially adverse" so that it would discourage a reasonable employee from making or supporting a charge of discrimination. See Donovan, 974 So. 2d at 460. On remand the ALJ shall enter a Final Order announcing his or her determination and reviewing the sufficiency of the evidence. In all other respects the petition is denied.

On February 19, the undersigned issued an Order Reopening File and directing the parties to submit any written argument in

support of their positions. Each party timely submitted argument, which has been considered.

The review of the evidence and testimony presented at the November 19, 2013, hearing has been completed.

FINDINGS OF FACT

1. The findings of fact set forth in the Recommended Order are approved, adopted and incorporated herein by reference and supplemented by the following:

2. The letter, found in paragraph 6 of the Recommended Order, contains language that is materially adverse, and would deter a reasonable person from pursuing a complaint with the Pinellas County Office of Human Rights. After receiving the letter, Mr. Tuzlak conferred with his counsel and decided to continue this discrimination action. That continuation of the action does not negate the reasonable person standard.

3. In reviewing the evidence provided during the hearing, there is competent substantial evidence to support the findings of fact as amended.

CONCLUSIONS OF LAW

4. The conclusions of law set forth in the Recommended Order are approved, adopted and incorporated herein by reference.

ORDER

Based on the foregoing amended Findings of Fact and Conclusions of Law, it is

ORDERED that:

A. Respondent violated section 70-54(1) Pinellas County Code;

B. Respondent shall pay Mr. Tuzlak reasonable attorney's fees and costs in prosecuting this action.^{2/}

DONE AND ORDERED this 31st day of March, 2015, in Tallahassee, Leon County, Florida.



LYNNE A. QUIMBY-PENNOCK
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 31st day of March, 2015.

ENDNOTES

^{1/} Counsel for Mr. Tuzlak, Counsel for Suncoast, and Keith Burnett, owner of Suncoast, appeared via video in St. Petersburg at the November 19, 2013, hearing. The Opinion reflects that Ms. Clevenger appeared by telephone.

^{2/} In the Final Order issued on January 17, 2014, jurisdiction was retained to address the amount of reasonable attorney's fees and costs. On February 11, 2014, the parties filed a Joint Status report where they agreed to the amount of attorney's fees and costs.

COPIES FURNISHED:

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NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to seek judicial review by filing a petition for writ of certiorari in the circuit court of the Sixth Judicial Circuit in and for Pinellas County, Florida, within 30 calendar days of the date of this Final Order. § 70-77(14), Pinellas County Code.