

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

MARTHA JANE KENNY,

EEOC Case No. NONE

Petitioner,

FCHR Case No. 2013-01037

v.

DOAH Case No. 13-4145

WESTSIDE REGIONAL MEDICAL
CENTER,

FCHR Order No. 14-015

Respondent.

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

Preliminary Matters

Petitioner Martha Jane Kenny 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 Westside Regional Medical Center committed an unlawful employment practice on the bases of Petitioner's age (DOB: 8-4-53) and perceived disability and on the basis of retaliation by terminating Petitioner from employment.

The allegations set forth in the complaint were investigated, and, on September 16, 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 Lauderdale Lakes and Tallahassee, Florida, on January 23, 2014, before Administrative Law Judge Robert E. Meale.

Judge Meale issued a Recommended Order of dismissal, dated March 4, 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

A transcript of the proceeding before the Administrative Law Judge was not filed with the Commission. In the absence of a transcript of the proceeding before the

Administrative Law Judge, the Recommended Order is the only evidence for the Commission to consider. See National Industries, Inc. v. Commission on Human Relations, et al., 527 So. 2d 894, at 897, 898 (Fla. 5th DCA 1988). Accord, Gantz, et al. v. Zion's Hope, Inc., d/b/a Holy Land Experience, FCHR Order No. 11-048 (June 6, 2011), Mack v. Agency for Persons with Disabilities, FCHR Order No. 11-026 (March 17, 2011), Hall v. Villages of West Oaks HOA, FCHR Order No. 08-007 (January 14, 2008), Beach-Gutierrez v. Bay Medical Center, FCHR Order No. 05-011 (January 19, 2005), and Waaser v. Streit's Motorsports, FCHR Order No. 04-157 (November 30, 2004).

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

Neither of the parties filed exceptions to the Administrative Law Judge's Recommended Order.

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 21th day of May, 2014.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Mario M. Valle, Panel Chairperson;
Commissioner Derick Daniel; and
Commissioner Onelia Fajardo-Garcia

Filed this 21th day of May, 2014,
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:

Martha Jane Kenny
c/o Scott M. Behren, Esq.
Behren Law Firm
2893 Executive Park Drive, Suite 110
Weston, FL 33331

Westside Regional Medical Center
c/o Alexander D. del Russo, Esq.
Carlton Fields Jordan Burt, P.A.
Post Office Box 150
West Palm Beach, FL 33402-0150

Robert E. Meale, 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 21th day of May, 2014.

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