

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

NELLIE PIERCE,

EEOC Case No. 15D201300223

Petitioner,

FCHR Case No. 2013-00505

v.

DOAH Case No. 13-4168

BRIGHT HORIZONS CHILDREN'S
CENTERS, LLC,

FCHR Order No. 14-010

Respondent.

**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 January 22, 2014, issued in the above-styled matter by Administrative Law Judge Lynne A. Quimby-Pennock.

Findings of Fact and Conclusions of Law

Judge Quimby-Pennock's order reflects that Petitioner failed to comply with orders of the Administrative Law Judge. Specifically, on November 18, 2013, Judge Quimby-Pennock issued an order granting Respondent's motion for continuance which required the parties to respond with available dates for the hearing to be rescheduled. Petitioner did not respond to this order. On December 30, 2013, Judge Quimby-Pennock issued an Order to Show Cause to Petitioner requiring Petitioner to respond to the above-referenced order of continuance and indicating that if a response was not received by January 15, 2014, an order closing the file would be issued by January 22, 2014. Petitioner did not respond to the Order to Show Cause.

We note that, generally, Commission panels have concluded that a Petitioner's failure to respond to orders of an Administrative Law Judge amounts to a voluntary dismissal of the Petition for Relief. See, generally, Herard v. MasTec, Inc., FCHR Order No. 13-034 (May 1, 2013), Cawley v. Primrose Center, Inc., FCHR Order No. 12-009 (February 21, 2012), Roundtree, et al. v. Advenir at Stonelake, LLC, FCHR Order No. 11-069 (August 30, 2011), Biggers v. Rooms To Go, FCHR Order No. 09-045 (May 12, 2009), Shook v. Riverside National Bank, FCHR Order No. 08-029 (May 6, 2008), Clifton v. Krys, et al., FCHR Order No. 07-062 (November 7, 2007), Bordonaro v. The Green at the Heather Condominium Association, Inc., FCHR Order No. 07-010 (February 14, 2007), Butler v. The Pepsi Bottling Group, FCHR Order No. 06-107 (December 4, 2006), Castellanos v. Express Net Airlines Pilots Association, FCHR Order No. 05-061 (June 15, 2005), Mayfield v. Karl's Haberdashery of Florida, Inc., FCHR

Order No. 04-020 (March 10, 2004), and Kenny v. Florida Department of Corrections, FCHR Order No. 02-020 (June 3, 2002).

Based on the foregoing, we conclude that the Petition for Relief should be dismissed.

Exceptions

On February 3, 2014, Petitioner filed a document with the Division of Administrative Hearings, with a copy to the Commission, which referenced the right to file exceptions to the Recommended Order.

Judge Quimby-Pennock considered the document to be a Motion for Reconsideration, and on February 7, 2014, issued an Order denying Petitioner's motion.

Further action on Petitioner's filing would not be within the substantive jurisdiction of the Commission. See Section 120.57(1)(l), Florida Statutes (2013).

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 26th day of March, 2014.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Mario M. Valle, Panel Chairperson;
Commissioner Donna Elam; and
Commissioner Michael Keller

Filed this 26th day of March, 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:

Nellie Pierce
1901 21st Street South
St. Petersburg, FL 33712

Bright Horizons Children's Centers, LLC
c/o Carlos J. Burruezo, Esq.
c/o Jason Matthew Leo, Esq.
Littler Mendelson, PC
111 North Magnolia Avenue, Suite 1250
Orlando, FL 32801

Lynne A. Quimby-Pennock, 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 26th day of March, 2014.

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