

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

DIETRICH R. JENKINS,

EEOC Case No. NONE

Petitioner,

FCHR Case No. 2014-00026

v.

DOAH Case No. 14-1919

JONES WALKER,

FCHR Order No. 14-040

Respondent.

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

Preliminary Matters

Petitioner Dietrich R. Jenkins filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2012), alleging that Respondent Jones Walker committed unlawful employment practices on the basis of Petitioner's sex and on the basis of retaliation with regard to work assignment issues, compensation issues, and issues surrounding Petitioner's participation in two harassment complaint investigations, all culminating in Petitioner's constructive discharge.

The allegations set forth in the complaint were investigated, and, on March 20, 2014, the Executive Director issued a "Determination: No Jurisdiction" finding that the Commission lacked jurisdiction over the matter because the complaint was untimely.

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 Miami and Tallahassee, Florida, on June 27, 2014, before Administrative Law Judge Todd P. Resavage.

Judge Resavage issued a Recommended Order of dismissal, dated July 24, 2014, finding that the complaint was untimely.

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.

The Administrative Law Judge found the Complaint, filed on December 23, 2013, to be untimely.

With regard to whether the Technical Assistance Questionnaire, signed by Petitioner on November 20, 2013, could be considered a complaint, we are unwilling to conclude that a Technical Assistance Questionnaire can never be considered a "complaint." Nevertheless, in the case before us, even if the Technical Assistance Questionnaire was considered a complaint, the complaint would still be untimely, given the Petitioner's November 13, 2012, notice of resignation. Accord Norris v. University Hospital, FCHR Order No. 10-052 (June 24, 2010), adopting conclusions of law set out in the Recommended Order for DOAH Case No. 09-6130, dated April 12, 2010.

With these comments, 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 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 Costilla
Clerk
Commission on Human Relations
2009 Apalachee Parkway, Suite 100
Tallahassee, FL 32301
(850) 488-7082

Copies furnished to:

Dietrich R. Jenkins
c/o Kenneth E. Walton, II, Esq.
The Walton Law Firm
1999 Southwest 27th Avenue
Miami, FL 33145

Jones Walker
c/o Laurie Michele Chess, Esq.
Jones Walker, LLP
201 South Biscayne Blvd., Suite 2600
Miami, FL 33131

Jones Walker
c/o Elizabeth M. Rodriguez, Esq.
FordHarrison LLP
100 Southeast 2nd Street, Suite 2150
Miami, FL 33131

Todd P. Resavage, 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 Costilla
Clerk of the Commission
Florida Commission on Human Relations