

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

PIRAMIAH ELAYAPERUMAL,

EEOC Case No. 15D201400055

Petitioner,

FCHR Case No. 2013-01955

v.

DOAH Case No. 14-2211

PALL CORPORATION,

FCHR Order No. 15-061

Respondent.

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

Preliminary Matters

Petitioner Piramiah Elayaperumal filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2013), alleging that Respondent Pall Corporation committed an unlawful employment practice on the basis of Petitioner's age (DOB: 12-16-52) by terminating Petitioner from employment.

The allegations set forth in the complaint were investigated, and, on April 14, 2014, 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 in Pensacola, Florida, on July 14, 2014, and March 26, 2015, before Administrative Law Judge Diane Cleavinger.

Judge Cleavinger issued a Recommended Order of dismissal, dated July 16, 2015.

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 note that in analyzing whether Petitioner had established a prima facie case of age discrimination the Administrative Law Judge concluded, "...Petitioner was a member of a protected class (over 40)..." Recommended Order, ¶ 26.

Commission panels have concluded that one of the elements for establishing a prima facie case of age discrimination under the Florida Civil Rights Act of 1992 is a showing that individuals similarly-situated to Petitioner of a "different" age were treated more favorably, and Commission panels have noted that the age "40" has no significance in the interpretation of the Florida Civil Rights Act of 1992. See, e.g., Downs v. Shear Express, Inc., FCHR Order No. 06-036 (May 24, 2006), and cases and analysis set out therein; see also, Boles v. Santa Rosa County Sheriff's Office, FCHR Order No. 08-013 (February 8, 2008), and cases and analysis set out therein.

Consequently, we yet again note that the age "40" has no significance in the interpretation of the Florida Civil Rights Act of 1992. Accord, e.g., Torrence v. Hendrick Honda Daytona, FCHR Order No. 15-027 (May 21, 2015), Grasso v. Agency for Health Care Administration, FCHR Order No. 15-001 (January 14, 2015), Cox v. Gulf Breeze Resorts Realty, Inc., FCHR Order No. 09-037 (April 13, 2009), Toms v. Marion County School Board, FCHR Order No. 07-060 (November 7, 2007), and Stewart v. Pasco County Board of County Commissioners, d/b/a Pasco County Library System, FCHR Order No. 07-050 (September 25, 2007). But, cf., City of Hollywood, Florida v. Hogan, et al., 986 So. 2d 634 (4th DCA 2008).

This does not impact the Administrative Law Judge's conclusion that Petitioner failed to establish a prima facie case of age discrimination. See Recommended Order, ¶ 26 and ¶ 27.

With this comment, 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.

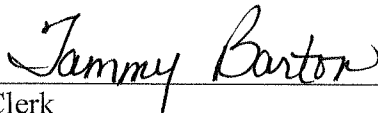
The parties have the right to seek judicial review of this Order. The Commission and the appropriate District Court of Appeal must receive notice of appeal within 30 days

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 17 day of Sept., 2015.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Michael Keller, Panel Chairperson;
Commissioner J. Jeff Graber; and
Commissioner Rebecca Steele

Filed this 17 day of Sept., 2015,
in Tallahassee, Florida.



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Diane Cleavinger, 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 17 day of Sept., 2015.

By: Tammy Barton
Clerk of the Commission
Florida Commission on Human Relations