

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

PEGGY TROIANO,

Petitioner,

v.

HERNANDO COUNTY HOUSING
AUTHORITY,

Respondent.

HUD Case No. 04-15-0032-8

FCHR Case No. 2015H0078

DOAH Case No. 14-6140

FCHR Order No. 15-049

**FINAL ORDER DISMISSING PETITION FOR
RELIEF FROM A DISCRIMINATORY HOUSING PRACTICE**

Preliminary Matters

Petitioner Peggy Troiano filed a housing discrimination complaint pursuant to the Fair Housing Act, Sections 760.20 - 760.37, Florida Statutes (2014), alleging that Respondent Hernando County Housing Authority committed a discriminatory housing practice on the basis of Petitioner's disability / handicap by denying Petitioner a tenant-based (Section 8) housing voucher in the instance in which Petitioner's daughter would serve as Petitioner's live-in aide, while both lived in a house owned by Petitioner's daughter.

The allegations set forth in the complaint were investigated, and, on December 4, 2014, the Executive Director issued a determination finding that there was no reasonable cause to believe that a discriminatory housing practice had occurred.

Petitioner filed a Petition for Relief from a Discriminatory Housing 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 Brooksville, Florida, on February 13, 2015, before Administrative Law Judge James H. Peterson, III.

Judge Peterson issued a Recommended Order of dismissal, dated May 22, 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 adopt the Administrative Law Judge's conclusions of law.

Exceptions

Petitioner filed exceptions to the Administrative Law Judge's Recommended Order, in a 46-page document, entitled "Exception," received by the Commission on or about June 3, 2015.

With regard to exceptions to Recommended Orders, the Administrative Procedure Act states, "The final order shall include an explicit ruling on each exception, but an agency need not rule on an exception that does not clearly identify the disputed portion of the recommended order by page number or paragraph, that does not identify the legal basis for the exception, or that does not include appropriate and specific citations to the record." Section 120.57(1)(k), Florida Statutes (2014); see, also, Taylor v. Universal Studios, FCHR Order No. 14-007 (March 26, 2014), McNeil v. HealthPort Technologies, FCHR Order No. 12-026 (June 27, 2012) and Bartolone v. Best Western Hotels, FCHR Order No. 07-045 (August 24, 2007).

A review of Petitioner's exceptions document suggests that a large portion of the document does not comply with this statutory provision.

Petitioner's document does specifically identify alleged "misstatements" in Recommended Order, ¶¶ 6, 8, 10, 12, 13, 15, 17, 18, 25, 26, 29, 30, 31, 34 and 35; resulting in exceptions to facts found, facts not found and inferences drawn from the evidence presented. (The reference to Recommended Order, ¶ 25, identifies a faulty citation to the Code of Federal Regulations.) Petitioner's exceptions document also excepts to the credibility of the testimony presented.

The Commission has stated, "It is well settled that it is the Administrative Law Judge's function 'to consider all of the evidence presented and reach ultimate conclusions of fact based on competent substantial evidence by resolving conflicts, judging the credibility of witnesses and drawing permissible inferences therefrom. If the evidence presented supports two inconsistent findings, it is the Administrative Law Judge's role to decide between them.' Beckton v. Department of Children and Family Services, 21 F.A.L.R. 1735, at 1736 (FCHR 1998), citing Maggio v. Martin Marietta Aerospace, 9 F.A.L.R. 2168, at 2171 (FCHR 1986)." Barr v. Columbia Ocala Regional Medical Center, 22 F.A.L.R. 1729, at 1730 (FCHR 1999). Accord, Bowles v. Jackson County Hospital Corporation, FCHR Order No. 05-135 (December 6, 2005), Eaves v. IMT-LB Central Florida Portfolio, LLC, FCHR Order No. 11-029 (March 17, 2011) and Taylor, supra.

In addition, it has been stated, "The ultimate question of the existence of discrimination is a question of fact." Florida Department of Community Affairs v.

Bryant, 586 So. 2d 1205, at 1209 (Fla. 1st DCA 1991). Accord, Coley v. Bay County Board of County Commissioners, FCHR Order No. 10-027 (March 17, 2010), Eaves, supra, and Taylor, supra.

Petitioner's exceptions are rejected.

Dismissal

The Petition for Relief and Housing Discrimination Complaint 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 31 day of July, 2015.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Michael Keller, Panel Chairperson;
Commissioner Derick Daniel; and
Commissioner Sandra Turner

Filed this 31 day of July, 2015,
in Tallahassee, Florida.

Jimmy Barton
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Commission on Human Relations
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James H. Peterson, III, 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 31 day of July, 2015.

By: Jimmy Baston
Clerk of the Commission
Florida Commission on Human Relations