

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

MICHELLE M. BENTON,

EEOC Case No. 15D201500013

Petitioner,

FCHR Case No. 2014-01468

v.

DOAH Case No. 14-6142

CAUFFIELD AND ASSOCIATES,

FCHR Order No. 15-036

Respondent.

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

Preliminary Matters

Petitioner Michelle M. Benton 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 Cauffield and Associates committed unlawful employment practices by failing to provide a reasonable accommodation for Petitioner's disabilities and by terminating Petitioner from employment on the basis of unlawful retaliation.

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 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 Fort Myers and Tallahassee, Florida, on February 24, 2015, before Administrative Law Judge Lynne A. Quimby-Pennock.

Judge Quimby-Pennock issued a Recommended Order of dismissal, dated April 15, 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 whether a Respondent has the requisite number of employees to be governed by the Florida Civil Rights Act of 1992 is not a jurisdictional issue, but rather is an element of Petitioner's claim for relief, which, in the instant case, the Administrative Law Judge appears to conclude that Petitioner failed to prove, as set out in Recommended Order, ¶ 5 and 8 through 10. See Prince v. Blanton Plumbing / Douglas Blanton, FCHR Order No. 13-007 (February 6, 2013), citing Kaplan v. Lappin and the Palm Beach Pops, Inc., 2010 U.S. Dist. LEXIS 73004 (S.D. Fla. 2010); see, also, Hill v. Goga Bap Corporation, d/b/a Subway Store No. 13268, FCHR Order No. 13-023 (March 11, 2013).

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

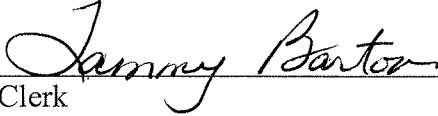
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 10 day of June, 2015.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Gilbert M. Singer, Panel Chairperson;
Commissioner Tony Jenkins; and
Commissioner Rebecca Steele

Filed this 10 day of June, 2015,
in Tallahassee, Florida.


Clerk

Commission on Human Relations
4075 Esplanade Way, Room 110
Tallahassee, FL 32399
(850) 488-7082

Copies furnished to:

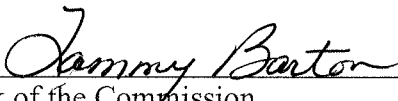
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Lynne A. Quimby-Pennock, Administrative Law Judge, DOAH

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 10 day of June, 2015.

By: 
Clerk of the Commission
Florida Commission on Human Relations