

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

ANN HERVAS,

Petitioner,

v.

POAH CUTLER MEADOWS, LLC,

Respondent.

HUD Case No. 04-15-1145-8

FCHR Case No. 2016H0183

DOAH Case No. 16-1798

FCHR Order No. 17-031

**ORDER REMANDING CASE TO ADMINISTRATIVE LAW JUDGE
FOR RE-ISSUANCE OF RECOMMENDED ORDER**

This matter is before the Commission for consideration of the Recommended Order, dated January 31, 2017, issued in the above-styled matter by Administrative Law Judge Robert E. Meale.

Findings of Fact and Conclusions of Law

The Recommended Order reflects that it was sent to Petitioner at 11280 Southwest 196th Street, Apartment A316, Miami, FL 33157 (emphasis added). In the transcript of the proceeding before the Administrative Law Judge, Petitioner identifies her address as 11280 Southwest 196th Street, Apartment A224, Miami, FL 33157 (emphasis added). See Transcript, Page 3, Lines 14-16. The record of the case before us reflects that the Recommended Order mailed to Petitioner at the Apartment A316 address designated above was returned to the Division of Administrative Hearings as undeliverable. The Recommended Order reflects that it was e-served on Respondent's counsel, but no e-service is designated for Petitioner.

We are concerned that Petitioner may not have received a copy of the Recommended Order, thereby impacting Petitioner's ability to file exceptions to the Recommended Order should Petitioner desire to do so.

Consequently, we remand the matter to the Administrative Law Judge for the re-issuance of the Recommended Order, using the address for Petitioner set out by Petitioner in the transcript of the proceeding, 11280 Southwest 196th Street, Apartment A224, Miami, FL 33157, starting anew Petitioner's time for filing exceptions. Accord, Demons v. Emerald Grande, LLC, FCHR Order No. 14-017 (May 21, 2014), Turner v. LP Ormond Beach, LLC d/b/a Signature Health Care, FCHR Order No. 14-011 (April 16, 2014), Bivins v. West Florida Hospital, FCHR Order No. 12-063 (November 16, 2012), Jackson v. Dollar General Corporation, FCHR Order No. 09-022 (March 6, 2009), Van Sandt-Fuller v. Coastal Cosmetic Center, Inc., FCHR Order No. 06-051 (May 24, 2006), and Francis v. Department of Juvenile Justice, FCHR Order No. 06-094 (November 13, 2006). (We note that in both Van Sandt-Fuller and Francis, supra, which were

remanded to the respective Administrative Law Judges for the same reason as this case, the Administrative Law Judges, upon reviewing the computer mail-out system of the Division of Administrative Hearings, subsequently found that the Recommended Orders had been mailed to the correct addresses and that the addresses on the Recommended Orders were typographical errors. The Administrative Law Judges consequently declined the Commission's remand of the cases. See, for Van Sandt-Fuller, "Order Declining Remand" in DOAH Case 05-4057, dated June 5, 2006, and for Francis, "Order Declining Remand" in DOAH Case 05-2958, dated November 20, 2006.)

Exceptions

Neither party filed exceptions to the Administrative Law Judge's Recommended Order.

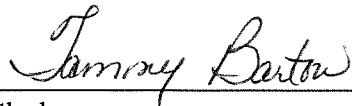
Remand

The Petition for Relief and Housing Discrimination Complaint are REMANDED to the Administrative Law Judge for the re-issuance of the Recommended Order, as indicated above.

DONE AND ORDERED this 20 day of April, 2017.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Rebecca Steele, Panel Chairperson;
Commissioner Derick Daniel; and
Commissioner Jay Pichard

Filed this 20 day of April, 2017,
in Tallahassee, Florida.



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

Copies furnished to:

Ann Hervas
11280 Southwest 196th Street
Apartment A224
Miami, FL 33157

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Miami, FL 33130

Robert E. Meale, 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 20 day of April, 2017.

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