STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

TIMOTHY BROOKS,

Petitioner,

v.

PIPER AIRCRAFT, INC.,

Respondent.
_____/

FCHR Case No. 2016-00529

DOAH Case No. 16-3766

FCHR Order No. 17-022

FINAL ORDER DISMISSING PETITION FOR RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE

Preliminary Matters

Petitioner Timothy Brooks filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2014), alleging that Respondent Piper Aircraft, Inc., committed unlawful employment practices on the basis of Petitioner's sex and on the basis of retaliation by terminating him from his position as a CNC Machine Operator.

The allegations set forth in the complaint were investigated, and, on May 20, 2016, 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 Sebastian, Florida, on September 12, 2016, before Administrative Law Judge J. D. Parrish.

Judge Parrish issued a Recommended Order of dismissal, dated January 6, 2017.

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 document entitled, "Petitioner's Exceptions to Recommended Order."

Respondent subsequently filed, "Response to Petitioner's Exceptions to the Recommended Order."

Petitioner took exception to Paragraph 28 of the Recommended Order.

The Administrative Procedure Act states that, "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 (2016); 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, 20120, and Bartolone v. Best Western Hotels, FCHR Order No. 07-045 (August 24, 2007).

A review of the Petitioner's exceptions document suggests that it does not comply with this statutory provision because it does not identify the legal basis for the exception. Petitioner takes exception to the Administrative Law Judge's finding that no unlawful employment practices occurred in this matter.

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 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 30 day of March, 2017.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Tony Jenkins, Panel Chairperson;
Commissioner Jay Pichard; and
Commissioner Sandra Turner

Filed this 30 day of March, 2017,
in Tallahassee, Florida.

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

Copies furnished to:

Adrienne E. Trent, Esquire
Adrienne E. Trent, P.A.
836 Executive Lane, Suite 120
Rockledge, Florida 32955

Patrick M. Muldowney, Esquire
Ashley M. Schachter, Esquire
Baker & Hostetler, LLP
Post Office Box 112
Orlando, Florida 32802

J.D. Parrish, Administrative Law Judge, DOAH

Sarah Stewart, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 30 day of March, 2017.

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