

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

REBEKAH WERTH,

HUD Case No. 04-16-4526-8

Petitioner,

FCHR Case No. 2017H0004

v.

DOAH Case No. 16-6144

ANN WITTMAN AND RONALD WITTMAN,

FCHR Order No. 17-043

Respondents.

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

This matter is before the Commission for consideration of the Second Recommended Order of Dismissal and Relinquishment of Jurisdiction, dated March 28, 2017, issued in the above-styled matter by Administrative Law Judge Robert L. Kilbride.

Findings of Fact and Conclusions of Law

Judge Kilbride's order reflects that Petitioner failed to comply with an order of the Administrative Law Judge. Specifically, Judge Kilbride issued an Amended Order on Remand notifying the parties of a March 20, 2017, telephonic hearing. The Amended Order on Remand alerted the parties that their failure to call in and attend the hearing could result in sanctions, including a determination that Petitioner's Petition for Relief was deemed withdrawn. Petitioner signed for and received the Amended Order on Remand as evidenced by a Certified Return Receipt. Petitioner did not call in or appear at the hearing. Consequently, Judge Kilbride concluded that Petitioner has "withdrawn and abandoned her Petition for Relief, and the case should be dismissed." Second Recommended Order of Dismissal and Relinquishment of Jurisdiction, ¶ 2 through ¶ 5, and ¶ 9.

We note that, generally, Commission panels have concluded that a Petitioner's failure to respond to orders of an Administrative Law Judge amounts to a voluntary dismissal of the Petition for Relief. See, generally, Varona v. Marshall Apartments, LLC, FCHR Order No. 15-062 (October 14, 2015), Noel v. C and S Wholesale Services, Inc., FCHR Order No. 15-044 (July 31, 2015), Morgan v. Skin Cancer Associates, FCHR Order No. 15-035 (June 10, 2015), Herard v. MasTec, Inc., FCHR Order No. 13-034 (May 1, 2013), Cawley v. Primrose Center, Inc., FCHR Order No. 12-009 (February 21, 2012), Roundtree, et al. v. Advenir at Stonelake, LLC, FCHR Order No. 11-069 (August 30, 2011), Biggers v. Rooms To Go, FCHR Order No. 09-045 (May 12, 2009), Shook v. Riverside National Bank, FCHR Order No. 08-029 (May 6, 2008), Clifton v. Krys, et al., FCHR Order No. 07-062 (November 7, 2007), Bordonaro v. The Green at the Heather Condominium Association, Inc., FCHR Order No. 07-010 (February 14,

2007), Butler v. The Pepsi Bottling Group, FCHR Order No. 06-107 (December 4, 2006), Castellanos v. Express Net Airlines Pilots Association, FCHR Order No. 05-061 (June 15, 2005), Mayfield v. Karl's Haberdashery of Florida, Inc., FCHR Order No. 04-020 (March 10, 2004), and Kenny v. Florida Department of Corrections, FCHR Order No. 02-020 (June 3, 2002).

Based on the foregoing, we conclude that the Petition for Relief should be dismissed.

Exceptions

Neither of the parties filed exceptions to the Administrative Law Judge's Second Recommended Order of Dismissal and Relinquishment of Jurisdiction.

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 15 day of June, 2017.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Rebecca Steele, Panel Chairperson;
Commissioner Derick Daniel; and
Commissioner Sandra Turner

Filed this 15 day of June, 2017,
in Tallahassee, Florida.

Tammy Boston
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Robert L. Kilbride, 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 15 day of June, 2017.

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