

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

ADRIAN RICO,

Petitioner,

v.

HIGBEE COMPANY, d/b/a
DILLARD'S,

Respondent.

EEOC Case No. 15D201600788

FCHR Case No. 2016-01519

DOAH Case No. 17-1550

FCHR Order No. 18-007

**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 October 24, 2017, issued in the above-styled matter by Administrative Law Judge Lawrence P. Stevenson.

Findings of Fact and Conclusions of Law

The Recommended Order reflects that it was sent to Petitioner at Building 25, Apartment 277, 4000 Gulf Terrace Drive, Destin, Florida 32541. No e-service of the Recommended Order on Petitioner is designated.

On June 21, 2017, Petitioner filed with the Division of Administrative Hearings an address change, indicating that his new address was Building 24, Apartment 175, 4000 Gulf Terrace Drive, Destin, Florida 32541. On August 21, 2017, Petitioner filed with the Division of Administrative Hearings an address change, indicating that his new address was 4050 Dancing Cloud Ct., Unit # 289, Destin, Florida 32541. On August 25, 2017, the Division of Administrative Hearings issued an "Order Granting Extension of Time" to file proposed recommended orders, and served Petitioner at the Dancing Cloud Ct. address listed above.

We are unable to determine from the record of the case the source of the address on which the Division of Administrative Hearings served the Recommended Order on 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 August 21, 2017, address change filed by Petitioner: 4050 Dancing Cloud Ct., Unit # 289, Destin, Florida 32541, starting anew Petitioner's time for filing exceptions. Accord, Hervas v. POAH Cutler Meadows, LLC, FCHR Order No. 17-031 (April 20, 2017), 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 Complaint of Discrimination are REMANDED to the Administrative Law Judge for the re-issuance of the Recommended Order, as indicated above.

DONE AND ORDERED this 11 day of January, 2018.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Tony Jenkins, Panel Chairperson;
Commissioner Latanya Peterson; and
Commissioner Gilbert M. Singer

Filed this 11 day of January, 2018,
in Tallahassee, Florida.



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

Copies furnished to:

Adrian Rico
4050 Dancing Cloud Ct.
Unit # 289
Destin, FL 32541

Higbee Company, d/b/a Dillard's
c/o Christopher W. Deering, Esq.
Ogletree, Deakins, Nash,
Smoak & Stewart, P.C.
420 20th Street North, Ste. 1900
Birmingham, AL 35203

Lawrence P. Stevenson, 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 11 day of January, 2017.

By: 
Clerk of the Commission
Florida Commission on Human Relations