STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

CARLOS F. VILLAVERDE,	EEOC Case No. 15D201700361
Petitioner,	FCHR Case No. 2017-00475
v.	DOAH Case No. 17-5208
CITY OF ORLANDO,	FCHR Order No. 18-048
Respondent.	

_____/

FINAL ORDER DISMISSING PETITION FOR RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE

Preliminary Matters

Petitioner Carlos F. Villaverde filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2016), alleging that Respondent City of Orlando committed unlawful employment practices on the basis of Petitioner's disability by failing to provide Petitioner a reasonable accommodation and by terminating Petitioner from employment. Petitioner also alleged that Respondent unlawfully retaliated against Petitioner.

The allegations set forth in the complaint were investigated, and, on July 20, 2017, 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 Orlando, Florida, on April 3, 2018, and by telephone on April 6, 2018, before Administrative Law Judge D. R. Alexander.

Judge Alexander issued a Recommended Order of dismissal, dated July 18, 2018.

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.

Filed November 14, 2018 11:26 AM Division of Administrative Hearings

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, received by the Commission on August 1, 2018.

Respondent filed a response to Petitioner's exceptions.

The exceptions document contains exceptions to the following Recommended Order paragraphs (note the paragraphs are set out in the order in which they appear in the exceptions document – some paragraphs are listed more than once): 18, 19, 48, 13, 24, 25, 47, 12, 25, 50, 35, 36, 38, 44, 38, 49, 51, 37, 31, 2, 29, 30, 32, 27, 38 and 52.

In each instance, Petitioner takes issue with facts found and inferences drawn from the evidence presented and / or provides comment / argument on the Recommended Order paragraph indicated, setting out Respondent's view of the facts.

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 v. Universal Studios, FCHR Order No. 14-007 (March 26, 2014).

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 14 day of November, 2018.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Latanya Peterson, Panel Chairperson;
Commissioner Jay Pichard; and
Commissioner Rebecca Steele

Filed this 14 day of November, 2018,
in Tallahassee, Florida.

Tammy Barton
Clerk
Commission on Human Relations
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D. R. Alexander, 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 14 day of November, 2018.

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