

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

RICHARD PUCCINI,

EEOC Case No. 15D201800178

Petitioner,

FCHR Case No. 2018-03453

v.

DOAH Case No. 18-4738

SOJOURN HOSPITALITY-NAPLES BAY
RESORT,

FCHR Order No. 19-026

Respondent.

**FINAL ORDER DISMISSING PETITION FOR
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE**

Preliminary Matters

On December 6, 2017, Petitioner Richard Puccini filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2017), alleging that Respondent Sojourn Hospitality-Naples Bay Resort committed an unlawful employment practice against Petitioner on the bases of sex and retaliation, by giving female massage therapists preferential treatment, eliminating some of his work duties, and ultimately terminating his employment.

The allegations set forth in the complaint were investigated, and, on August 8, 2018, the Executive Director issued a determination finding that there was no reasonable cause to believe that an unlawful employment practice had occurred.

On September 11, 2018, 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 scheduled for October 26, 2018, but Petitioner requested a continuance to conduct additional discovery, which was granted on October 25, 2018.

An evidentiary hearing was held via teleconference in Tallahassee and Fort Myers, Florida, on January 14, 2019, before Administrative Law Judge Andrew D. Manko.

Judge Manko issued a Recommended Order of dismissal, dated January 29, 2019.

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

A transcript of the proceeding before the Administrative Law Judge was not filed with the Commission. In the absence of a transcript of the proceeding before the Administrative Law Judge, the Recommended Order is the only evidence for the Commission to consider. See

National Industries, Inc. v. Commission on Human Relations, et al., 527 So. 2d 894, at 897, 898 (Fla. 5th DCA 1988). Accord, Coleman v. Daytona Beach, Ocean Center Parking Garage, FCHR Order No. 14-034 (September 10, 2014), Gantz, et al. v. Zion's Hope, Inc., d/b/a Holy Land Experience, FCHR Order No. 11-048 (June 6, 2011), and Hall v. Villages of West Oaks HOA, FCHR Order No. 08-007 (January 14, 2008).

We adopt the Administrative Law Judge's conclusion that there were no 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

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

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 23 day of April, 2019.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Rebecca Steele, Panel Chairperson;
Commissioner Jay Pichard; and
Commissioner Tony Jenkins (absent, did not vote)

Filed this 23 day of April, 2019,
in Tallahassee, Florida.


Clerk

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Andrew D. Manko, 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 23 day of April, 2019.

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