

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

VIRGINIA GUTIERREZ,

HUD Case No. 04-18-0881-8

Petitioner,

FCHR Case No. 2018-09150
2017H0464

v.

DOAH Case No. 18-5598

FLAMINGO COURTS CONDO ASSOC.
INC.,

FCHR Order No. 19-020

Respondent.

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

Preliminary Matters

Petitioner Virginia Gutierrez filed a housing discrimination complaint pursuant to the Fair Housing Act, Sections 760.20 - 760.37, Florida Statutes (2016), alleging that Respondent Flamingo Courts Condo Assoc. Inc. committed a discriminatory housing practice on the basis of Petitioner's disability by failing to respond to her accommodation request to keep her emotional support animal.

The allegations set forth in the complaint were investigated, and, on August 31, 2018, the Executive Director issued a determination finding that there was no reasonable cause to believe that a discriminatory housing practice had occurred.

Petitioner filed a Petition for Relief from a Discriminatory Housing Practice and the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

An evidentiary hearing was held by video teleconference at sites in Miami and Tallahassee, Florida, on December 27, 2018, before Administrative Law Judge Robert L. Kilbride, at which Petitioner failed to appear.

Judge Kilbride issued a Recommended Order of Dismissal, dated December 27, 2018.

The Commission panel designated below considered the record of this matter and determined the action to be taken on the Recommended Order of Dismissal.

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 of Dismissal in a document entitled, "Petitioner's Exemption for Hearing Continuation."

Petitioner excepts to the failure of the Administrative Law Judge to grant her request for continuance of the final hearing, which was filed either the day before or the day of the final hearing.

Petitioner also excepts to the manner in which the Commission conducted its investigation.

We note that in Petitioner's exceptions document, Petitioner admits her failure to appear at the final hearing.

Further, we note that the manner in which the Commission conducted its investigation is not an issue before the Division of Administrative Hearings, since the proceedings at the Division of Administrative Hearings are *de novo*. See Section 120.57(1)(k), Florida Statutes (2018).

Petitioner's exceptions are rejected.

Dismissal

The Petition for Relief and Housing Discrimination Complaint 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 26 day of March, 2019.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Latanya Peterson, Panel Chairperson;
Commissioner Donna Elam (not present and did not participate); and
Commissioner Jay Pichard

Filed this 26 day of March, 2019,
in Tallahassee, Florida.



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

Copies furnished to:

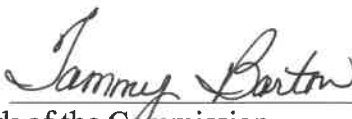
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Robert L. Kilbride, Administrative Law Judge, DOAH

Stanley Gorsica, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above
listed addressees this 26 day of March, 2019.

By: 
Clerk of the Commission
Florida Commission on Human Relations