

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

JACQUELYN JAMES,

Petitioner,

v.

FLORIDA DEPARTMENT OF REVENUE,

Respondent.

FCHR Case No. 2018-4904

EEOC Case No. 15D201800489

DOAH Case No. 19-1693

FCHR Order No. 19-060

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

Preliminary Matters

Petitioner Jacquelyn James 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 Florida Department of Revenue committed an unlawful employment practice on the basis of age and retaliation by failing to hire Petitioner.

The allegations set forth in the complaint were investigated, and, on February 21, 2019, 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 Tallahassee, Florida, on June 7, 2019, before Administrative Law Judge Suzanne Van Wyk.

Judge Van Wyk issued a Recommended Order of dismissal, dated July 16, 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

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.

However, in the Recommended Order, paragraph 46, the Administrative Law Judge states that Petitioner is a member of a protected class because she is over 40 years of age. It should be noted that the distinction of 40 years of age is only a requirement under the Age Discrimination and Employment Act (ADEA), and is not a requirement under the Florida Civil Rights Act of 1992. Accord, e.g., *Grasso v. Agency for Healthcare Administration*, FCHR Order No. 15-001 (January 14, 2015), *Cox v. Gulf Breeze Resorts Realty, Inc.*, FCHR Order No. 09-037 (April 13, 2009), *Toms v. Marion County School Board*, FCHR Order No. 07-060 (November 7, 2007), and *Stewart v. Pasco County Board of County Commissioners, d/b/a Pasco County Library System*, FCHR Order No. 07-050 (September 25, 2007). But, cf., *City of Hollywood, Florida v. Hogan, et al.*, 986 So. 2d 634(4th DCA 2008).

With these comments, we adopt the Administrative Law Judge's conclusions of law.

Exceptions

Neither party filed exceptions.

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.

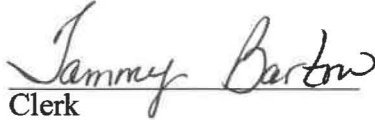
DONE AND ORDERED this 1st day of October, 2019.

FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Latanya Peterson, Panel Chairperson;
Commissioner Donna Elam; and
Commissioner Jay Pichard

Filed this 1st day of October 2019, in
Tallahassee, Florida.

Filed this 18th day of October 2019, in Tallahassee, Florida.



Clerk
Commission on Human Relations
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COPIES FURNISHED

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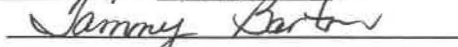
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Suzanne Van Wyk, Administrative Law Judge

Radhika Puri, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 18th day of October, 2019.

By: 
Clerk of the Commission
Florida Commission on Human Relations