

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

JEFF B. PARSONS,

EEOC No. 15D201900467

Petitioner,

FCHR No. 201918423

v.

DOAH Case No. 19-5134

MONRO D/B/A MCGEE
TIRE AND AUTO,

FCHR Order No. 21-032

Respondent.

**INTERLOCUTORY ORDER FINDING THAT AN UNLAWFUL EMPLOYMENT
PRACTICE OCCURRED AND REMANDING CASE TO ADMINISTRATIVE LAW
JUDGE TO ESTABLISH THE AMOUNT OF BACK PAY/LOST WAGES OWED TO
PETITIONER, AND TO DETERMINE THE AMOUNT OF COSTS, INCLUDING
ATTORNEY'S FEES, OWED TO PETITIONER**

Preliminary Matters

On February 27, 2019, Petitioner Jeff B. Parsons filed a complaint of discrimination based on Petitioner's age and disability against Respondent Monroe d/b/a McGee Tire and Auto, pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2018). In his complaint, Petitioner, who is 57 years of age, essentially claimed that he had been injured on the job and, upon being released by his physician to return to light duty, was told by Respondent that it had no work for him. Respondent allegedly did not formally dismiss Petitioner. However, according to Petitioner, Respondent did hire someone to fill the position left open by Petitioner's absence.

The allegations set forth in the complaint were investigated, and, on August 23, 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 on December 13, 2019, before Administrative Law Judge Lawrence P. Stevenson.

Judge Stevenson issued a Recommended Order finding that an unlawful employment practice occurred, dated March 2, 2020.

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 filed with the Division of Administrative Hearings. 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

The statutory deadline for filing exceptions in this case was March 17, 2020. No exceptions were filed by Petitioner or Respondent. Respondent did file on April 27, 2020 a motion to extend the time to file exceptions. Section 120.57(1)(k) (2020) states, in pertinent part, "[t]he agency shall allow each party 15 days in which to submit written exceptions to the recommended order." In view of the fact that the motion was filed beyond the deadline for filing exceptions, the motion is denied.

Order and Remand

Through our adoption of the Administrative Law Judge's findings of fact and conclusions of law, as set out above, we find that unlawful discrimination occurred in this matter in the manner found by the Administrative Law Judge. In addition, we conclude the case should be remanded to the Administrative Law Judge for determination of the amounts of back pay/lost wages, and attorney's fees and costs owed Petitioner.

Respondent is hereby ORDERED:

(1) to pay Petitioner back pay/lost wages and interest; and
(2) to pay Petitioner the amounts of attorney's fees and costs that have been reasonably incurred in this matter by Petitioner.

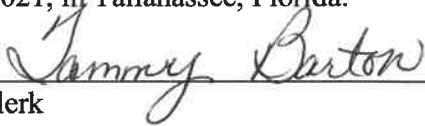
This matter is REMANDED to the Administrative Law Judge for further proceedings to determine the amounts of back pay/lost wages, and attorney's fees and costs owed to Petitioner,

and the issuance of a Supplemental Recommended Order as to those amounts.

DONE AND ORDERED this 5 day of May, 2021.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Mario Garza, Panel Chairperson
Commissioner Darrick McGhee; and
Commissioner Angela Primiano

Filed this 5 day of May, 2021, in Tallahassee, Florida.


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Lawrence P. Stevenson, Administrative Law Judge, DOAH

John Scotese, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 5 day of May, 2021.

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