

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

VADIM TROSHKIN,

Petitioner,

vs.

Case No. 20-2445

STATE OF FLORIDA, DEPARTMENT OF
HEALTH, DUVAL COUNTY HEALTH
DEPARTMENT,

Respondent.

RECOMMENDED ORDER

A formal hearing was conducted in this matter on August 4, 2020, via Zoom conference, before Suzanne Van Wyk, a duly-designated Administrative Law Judge with the Division of Administrative Hearings (“Division”).

APPEARANCES

For Petitioner: No appearance

For Respondent: Amy P. Meyer, Esquire
Department of Health
900 University Boulevard North, MC-30
Jacksonville, Florida 32211

STATEMENT OF THE ISSUE

Whether Respondent, State of Florida, Department of Health, Duval County Health Department (“the Department”), discriminated against Petitioner, Vadim Troshkin, in employment in violation of the Florida Civil Rights Act of 1992 (“the Act”).

PRELIMINARY STATEMENT

On or about September 25, 2019, Petitioner filed a discrimination complaint (“Complaint”) with the Florida Commission on Human Relations (“the Commission”) alleging the Department discriminated against him by refusing to hire him for the position of advance practice registered nurse. Specifically, he alleged the Department did not hire him because of his age or national origin. After 180 days, the Commission had not issued a ruling on Petitioner’s Complaint and advised Petitioner of his rights to an administrative hearing.

On or about May 15, 2020, Petitioner filed his request for an administrative hearing, and the matter was referred to the Division and assigned to the undersigned, who scheduled the final hearing for August 4, 2020, via video teleconference at sites in Tallahassee and Jacksonville, Florida. The hearing was subsequently changed to Zoom conference on the previously-scheduled date.

Petitioner did not appear at the final hearing. All notices and orders were sent to the address of record provided by Petitioner. None were returned as undeliverable. The Department opted to present a case in chief. The Department introduced the testimony of the Human Resources Manager, Sara Caron, and the Director of Nursing, Angela O’Donnell. Department Exhibits 7 and 8 were admitted into evidence.

The final hearing proceedings were recorded, but the parties did not order a transcript. The Department filed a Proposed Recommended Order on August 24, 2020, which has been considered by the undersigned in preparing this Recommended Order. Petitioner did not file a proposed recommended order.

Unless otherwise indicated, all citations to the Florida Statutes herein are to the 2019 version.

FINDINGS OF FACT

1. The Department is an employer as defined in section 760.02(7), Florida Statutes.

2. In March 2019, Petitioner applied for a position as an advance practice registered nurse with the Department.

3. Petitioner submitted a completed application and was selected for an interview by the Director of Nursing, Angela O'Donnell.

4. Petitioner was one of six candidates interviewed for the position.

5. Ms. O'Donnell was one of three individuals who interviewed Petitioner for the position on March 13, 2019.

6. Petitioner did well during the interview and was ranked four out of the six candidates for the position. Petitioner was not the highest ranking candidate, so he was not offered the position.

7. Neither Ms. O'Donnell nor any of the other interviewers mentioned either Petitioner's age or his nationality during the interview.

8. Ms. O'Donnell's scoring sheet does not contain any reference to either Petitioner's age or national origin.¹

9. Even if Petitioner had been the highest scoring candidate, he would not have automatically been hired for the position.

10. It is the Department's policy to give a conditional offer to the highest scoring candidate for any position. A conditional offer is contingent upon completion of the candidate's reference checks and background screening.

11. If a candidate does not have good references or pass the background screening, the candidate will not be hired, even if he or she is the top-scoring candidate.

¹ Of the three interviewers, only Ms. O'Donnell's scoring sheet was introduced into evidence.

12. Therefore, the interview is not the final step in the hiring process.

CONCLUSIONS OF LAW

13. The Division has jurisdiction of the subject matter and the parties to this proceeding. §§ 120.569 and 120.57(1), Fla. Stat.

14. The Act prohibits discrimination in the workplace. Section 760.10 makes it unlawful for an employer “to fail or refuse to hire any individual ... because of such individual’s race, color, religion, sex, national origin, age, handicap or marital status.”

15. The Department is an employer as defined in section 760.02(7).

16. Petitioner has the burden of proof in this case to establish the allegations of his Petition by a preponderance of the evidence. *See* § 120.57(1)(j), Fla. Stat.

17. Petitioner did not introduce any evidence to support the allegations in his Petition that the Department failed to hire him based on his age or national origin. Petitioner did not establish a prima facie case of discrimination. *See McDonnell Douglas Corp. v. Green*, 411 US 792 (1973).

RECOMMENDATION

Based on the foregoing Finding of Facts and Conclusions of Law, it is:

RECOMMENDED, that the Florida Commission on Human Relations issue a final order dismissing Petitioner’s Petition for Relief in Case No. 2019-21589.

DONE AND ENTERED this 1st day of September, 2020, in Tallahassee, Leon County, Florida.



SUZANNE VAN WYK
Administrative Law Judge
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Filed with the Clerk of the
Division of Administrative Hearings
this 1st day of September, 2020.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.