

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

VANESSA PUCCINI,

EEOC No. 15D202100057

Petitioner,

FCHR No. 202127033

v.

DOAH No. 21-1409

BROOKS BURGER,

FCHR Order No. 22-005

Respondent.

FINAL ORDER DISMISSING PETITION FOR
RELIEF FROM A DISCRIMINATORY EMPLOYMENT PRACTICE

This matter is before the Commission panel designated below for consideration of the Recommended Order, dated August 5, 2021, issued in the above-styled matter by Administrative Law Judge Lynne A. Quimby-Pennock.

Preliminary Matters

On October 23, 2020, Petitioner, Vanessa Puccini, filed an employment discrimination complaint pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2020), alleging that Respondent, Brooks Burger, committed discrimination against her on the bases of race and national origin.

The allegations set forth in the complaint were investigated, and, on April 21, 2021, the Executive Director issued a determination finding that there was no reasonable cause to find that a discriminatory employment practice had occurred.

On April 23, 2021, Petitioner filed a Petition for Relief from a Discriminatory Employment Practice, and the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

A final evidentiary hearing took place on June 28, 2021, before Administrative Law Judge Lynne A. Quimby-Pennock via Zoom teleconference from Tallahassee, Florida.

On August 5, 2021, Judge Quimby-Pennock issued a Recommended Order, which would result in a dismissal of the Petition for Relief.

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.

Accordingly, we adopt the Administrative Law Judge's findings of fact.

Conclusions of Law

Judge Quimby-Pennock’s conclusions of law include findings that Respondent is not an “employer” as defined by section 760.02(7), Florida Statutes, and that Complainant did not show she was discriminated against because of her race or national origin.

We find the Administrative Law Judge’s application of the law to the facts to result in a correct disposition of the matter.

Accordingly, we adopt the Administrative Law Judge’s conclusions of law.

Exceptions

On August 18, 2021, Petitioner filed a document titled “Petitioner’s Exceptions to the Recommended Order”. The Commission has stated, “It is well settled that it is the Administrative Law Judge’s function ‘to consider all of the evidence presented and reach ultimate conclusions of fact based on competent substantial evidence by resolving conflicts, judging the credibility of witnesses and drawing permissible inferences therefrom. If the evidence presented supports two inconsistent findings, it is the Administrative Law Judge’s role to decide between them.’ Beckton v. Department of Children and Family Services, 21 F.A.L.R. 1735, at 1736 (FCHR 1998), citing Maggio v. Martin Marietta Aerospace, 9 F.A.L.R. 2168, at 2171 (FCHR 1986).” Barr v. Columbia Ocala Regional Medical Center, 22 F.A.L.R. 1729, at 1730 (FCHR 1999). Accord, Bowles v. Jackson County Hospital Corporation, FCHR Order No. 05-135 (December 6, 2005) and Eaves v. IMT-LB Central Florida Portfolio, LLC, FCHR Order No. 11-029 (March 17, 2011) and Taylor v. Universal Studios, FCHR Order No. 14-007 (March 26, 2014). Petitioner’s exceptions except to facts found and inferences drawn by the Administrative Law Judge from the evidence. Therefore, Petitioner’s exceptions are rejected.

Dismissal

The Petition for Relief and Employment 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 27 day of January, 2022.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Angela Primiano (Panel Chair);
Commissioner Libby Farmer; and
Commissioner Larry Hart

Filed this 27 day of January, 2022, in Tallahassee, Florida.

Tammy Barton

Clerk

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Lynne A. Quimby-Pennock, 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 27 day of January, 2022.

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