



FILED:
November
30, 2021

STATE OF INDIANA
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

DATE FILED
NOV 30 2021

ICRC
COMMISSION

Gregory L. Wilson, Sr., in his official capacity as Executive Director of the Indiana Civil Rights Commission & Joshua Allen, Complainants, V. Maureen Eastgate & M&M Rental Property Management & Realty LLC, Respondents.	Administrative Cause No.: ICRC-0521-001037 Underlying Agency Action No.: HOfs20080267 05-20-0062-8
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Subject to the Ultimate Authority of the Indiana Civil Rights Commission

FINAL FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

Pursuant to IC 4-21.5 and the Commission's June 19, 2020 Order: Automatic Adoption and Approval of Certain Non-Final Decisions, this Order is final, having been automatically approved by the Indiana Civil Rights Commission.

PROCEDURAL HISTORY & JURISDICTION

The Commission of the Indiana Civil Rights Commission ("ICRC") has subject matter jurisdiction over housing and real estate discrimination complaints based on familial status and disability that are filed under the Indiana Fair Housing Act ("IFHA") and the Indiana Civil Rights Law ("ICRL"). IND. CODE § 22-9-1-2; IND. CODE § 22-9-1-6; IND. CODE § 22-9.5-4-1; IND. CODE § 22-9.5-5. On May 4, 2021, the ICRC, after conducting a neutral investigation, made a reasonable cause and probable cause finding on Joshua Allen's August 13, 2020 complaint that alleged Respondents violated the Indiana Fair Housing Act ("IFHA") and the Indiana Civil Rights Law ("ICRL") by discriminating against him in the protected area of housing and real estate on the basis of familial status and disability. When a finding of cause is made under the IFHA and ICRL, pursuant to the Commission's June 19, 2020 Finding of Necessity, the Office of Administrative Law Proceedings ("OALP") shall appoint an Administrative Law Judge ("ALJ") to preside over the matter and to conduct a hearing. IND. CODE § 22-9-1-6; IND. CODE § 22-9.5-6-14; IND. CODE § 4-15-10.5-12; IND. CODE § 4-15-10.5-13. On November 24, 2021, the undersigned ALJ for the OALP issued a Recommended Findings of Fact, Conclusions of Law, and Order ("Recommended Order") that dismissed the familial status claims brought under the ICRL for lack of jurisdiction. The Recommended Order is currently before the Commission for review.

ISSUE

Is Complainants' Notice of Withdrawal ("Motion") effective in dismissing this matter?

FINDINGS OF FACT

1. The Motion was filed on November 24, 2021.
2. As represented in the Motion, the Parties have reached a settlement. As a result, Complainants request that this matter be dismissed.
3. The Motion was served on all Parties before a Notice of Hearing was issued.
4. There is no evidence of fraud, coercion, duress, or any other reason not to grant the requested dismissal.
5. Any Conclusion of Law that should have been deemed a Finding of Fact is hereby adopted as such, and this Order's statement of Procedural History is incorporated into these Findings of Fact.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the Parties. IND. CODE § 22-9-1-2; IND. CODE § 22-9-1-3; IND. CODE § 22-9.5-5-5.
2. The Parties did not file a "consent agreement" or "conciliation agreement" that requires the approval and signature of a majority of the Commissioners. IND. CODE § 22-9-1-6(o); 910 IAC 1-3-4; IND. CODE § 22-9.5-6-5; 910 IAC 2-6-5.
3. A Complainant can withdraw an ICRC complaint by filing a Notice of Withdrawal with the Commission. 910 IAC 1-2-6.
4. A Notice of Withdrawal is a written statement made by the Complainant in which the Complainant requests that the matter be closed. *Id.* The Notice of Withdrawal must be served on all Parties. *Id.*
5. If a hearing has been set, then the majority of the Commission must agree to the withdrawal before the withdrawal is effective in closing the matter. *Id.*
6. However, if a hearing has not been set, then the Notice of Withdrawal filed by a Complainant is immediately effective in closing the matter as of the date of filing. *Id.*
7. Furthermore, on June 19, 2020, the ICRC Commission issued its Order: Automatic Adoption and Approval of Certain Non-Final Decisions ("Commission's Order"). As detailed in the Commission's Order (attached as Exhibit A), the Commission, by majority vote, agreed to automatically approve any non-final decision issued by an ALJ in which an ALJ accepts a "Notice of Withdrawal filed by Complainant before a date for a hearing has been set," provided the Notice of Withdrawal complies with 910 IAC 1-2-6 or in which an ALJ accepts a joint motion to dismiss, provided the Parties waive their right to object to the ALJ's decision under IAOPA.
8. Complainants filed Complainants' Motion prior to the setting of a hearing in this matter, and Complainants' Motion complies with 910 IAC 1-2-6.

9. Accordingly, this matter is dismissed, and pursuant to IC 4-21.5-3-29 and the Commission's Order, this Order is an automatically affirmed as a Final Order disposing of the proceedings. IND. CODE § 4-21.5-3-27(a).
10. Any Finding of Fact that should have been deemed a Conclusion of Law is hereby adopted as such, and this Order's Statement of Jurisdiction is incorporated into these Conclusions of Law.


DECISION

Having duly considered the above, the undersigned Administrative Law Judge ("ALJ") for the Office of Administrative Law Proceedings ("OALP") hereby orders as follows:

1. Complainants' Notice of Withdrawal is GRANTED.
2. Joshua Allen's August 13, 2020 Complaint of disability discrimination brought under the ICRL and Director Wilson's IFHA Charge are DISMISSED, with prejudice.
3. Either Party to a dispute filed under IC 22-9.5 or IC 22-9 may, not more than thirty (30) days after the date of receipt of the Commission's final appealable order, appeal to the court of appeals under the same terms, conditions, and standards that govern appeals in ordinary civil actions. IND. CODE § 22-9-8-1; IND. CODE § 22-9.5-11-1.

The Recommended Order remains pending with the Indiana Civil Rights Commission.

SO ORDERED: November 30, 2021



Hon. Caroline A. Stephens Ryker, Administrative Law Judge
Indiana Office of Administrative Law Proceedings
100 North Senate Ave., Room N802
Indianapolis, IN 46204
(317) 234-6689

Distribution List:

*The following distribution list includes the names and mailing addresses of all known Parties and other persons to whom notice is being given. *Served in care of appearing attorney through ALP system at the email address on file with the Indiana Roll of Attorneys – all other service by mail.*

Joshua Allen: 1403 Clearcreek Trail, North Manchester, IN 47962
Gregory Wilson *: 100 North Senate Ave., Room N300, Indianapolis, IN 46204
Maureen Eastgate*: 404 East Main Street, North Manchester, IN 47962
Matthew J. Mize, LLC*: PO Box 42, North Manchester, IN 46962
Mark Frantz*: 99 West Canal Street, Wabash, Indiana 46992
Zachary Griffin and Frederick Bremer*: 100 North Senate Ave., Room N300, Indianapolis, IN 46204; (317) 232-2634
Chair Slash of the Indiana Civil Rights Commission – ultimate authority and served at docketclerk@icrc.in.gov

INDIANA CIVIL RIGHTS COMMISSION
ORDER: AUTOMATIC ADOPTION AND APPROVAL OF CERTAIN NON-FINAL
DECISIONS

On June 19, 2020, the Majority of the Indiana Civil Rights Commission voted, under Indiana Code 4-21.5-3-29, to automatically adopt and approve as a final order any decision issued by an Administrative Law Judge ("ALJ") assigned to a matter under the June 19, 2020 Order: Finding of Necessity in which the assigned ALJ accepts the following:


1. A Joint Motion to Dismiss or similar motion in which all parties move for the matter's dismissal and waive their right to file objections to a decision issued by the ALJ under Indiana Code 4-21.5-3-29; and
2. A Notice of Withdrawal filed by Complainant before a date for a hearing has been set, provided the Notice of Withdrawal complies with 910 IAC 1-2-6(A)(i) and 910 IAC 1-2-6(B).

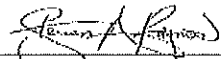
This Order does not apply to any Consent or Conciliation Agreements which require the signature of all approving Commission Members to be effective.

This Order applies with equal force to decisions issued under Indiana Code 22-9, *et. seq.* and Indiana Code 22-9.5, *et. seq.*

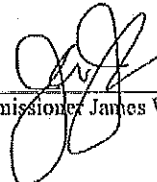
This Order is effective immediately.

SO ORDERED on June 19, 2020 by the majority vote of 4 Commissioners:


Chair Adrienne L. Slash


Vice-Chair Steven A. Ramos


Commissioner Holli Harrington


Commissioner James W. Jackson