

MAR 27 2015

STATE OF INDIANA
INDIANA CIVIL RIGHTS COMMISSION

INDIANA STATE
CIVIL RIGHTS COMMISSION

JAMAL L. SMITH, in his capacity as EXECUTIVE
DIRECTOR of the INDIANA CIVIL RIGHTS
COMMISSION

Complainant,

vs.

DEBRA WERNKE/
HUNTER'S RIDGE APARTMENTS,

Respondents.

ICRC No.: HOha14090718

HUD No.: 05-14-1532-8

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

On February 25, 2015, Hon. Noell F. Allen Administrative Law Judge ("ALJ") for the Indiana Civil Rights Commission ("ICRC") entered her Proposed Findings of Fact, Conclusions of Law, And Order ("the proposed decision").

The Complainant and Respondent did not file objections to the ICRC's adoption of the proposed decision.

Having carefully considered the foregoing and being duly advised in the premises, the ICRC hereby adopts as its own the findings of fact, conclusions of law, and order proposed by the ALJ in the proposed decision, a copy of which is attached hereto and incorporated herein by reference.

Any party aggrieved by the ICRC's decision may seek judicial review with the Indiana Court of Appeals within thirty days following the date of notification of such decision.



COMMISSIONER



COMMISSIONER



COMMISSIONER



COMMISSIONER

March 27, 2015

To be served by Certified Mail on the following parties:

Billy Pitcock
5930 North Sugarlane
Plainfield, IN 46168
Certified Mail #: 9214 8901 0661 5400 0053 6020 42

Debra Wernke
Hunter's Ridge Apartments
250 N. East St.
Plainfield, IN 46168
Certified Mail #: 9214 8901 0661 5400 0053 6026 53

Alexandra M. Curlin
Curlin & Clay Law
8555 Cedar Place Dr., Ste. 112
Indianapolis, IN 46240
Certified Mail #: 9214 8901 0661 5400 0053 6382 25

and to be personally served on the following attorney of record:

Michael C. Healy, Esq.; Staff Counsel
Indiana Civil Rights Commission
Indiana Government Center North
100 North Senate Avenue, Room N103
Indianapolis, IN 46204-2255

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**PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
ORDER**

On February 24, 2015, Respondents, Debra Wernke and Hunter's Ridge Apartments, filed its Notice of Election ("NOTICE").

Having carefully considered the foregoing and being duly advised in the premises, the undersigned Administrative Law Judge ("ALJ") for the Indiana Civil Rights Commission ("ICRC") proposes that the ICRC enter the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

1. Billy Pitcock filed the Complaint of Discrimination on September 15, 2014 naming the Respondents, alleging unlawful discrimination because of disability in violation of the Indiana Fair Housing Act, IC 22-9.5 ("the IFHA"). COMPLAINT OF DISCRIMINATION (September 15, 2014).

2. On January 29, 2015, the ICRC's Executive Director, Jamal L. Smith, issued his NOTICE OF FINDING and ISSUANCE OF CHARGE, finding reasonable cause to believe a violation of the IFHA had occurred. Mr. Smith issued A REVISED NOTICE OF FINDING and ISSUANCE OF CHARGE on February 4, 2015, extending the time for parties to file a notice of election.

3. Respondent filed the NOTICE within twenty (20) days of receipt of the Notice of Finding.
4. Any Conclusion of Law that should have been deemed a Finding of Fact is hereby adopted as such.

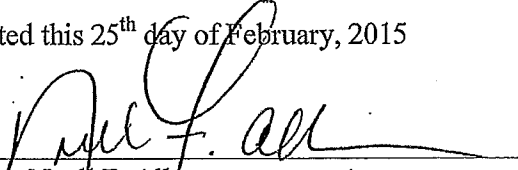
CONCLUSIONS OF LAW

1. Under the IFHA, a complainant, a respondent, or an aggrieved person may elect to have the claims asserted in a reasonable cause finding decided in a civil action. IC 22-9.5-6-12(a).
2. Such an election must be made within twenty (20) days after receipt by the electing party of the reasonable cause finding. IC 22-9.5-6-12(a).
3. The election in the NOTICE was made in a timely manner.
4. Housing Rule 7.9(a) of the ICRC provides, in material part, as follows:
If ... the respondent ... makes a timely election to have the claims asserted in the charge asserted in a civil action under IC 22-9.5-6-12, the administrative law judge shall dismiss the proceeding.
910 IAC 2-7-9(a).
5. This complaint must be dismissed under 910 IAC 2-7-9(a).
6. Administrative review of this proposed decision may be obtained by the filing of a writing identifying with reasonable particularity each basis of each objection within fifteen (15) days after service of this proposed decision. IC 4-21.5-3-29(d).
7. Any Finding of Fact that should have been deemed a Conclusion of Law is hereby adopted as such.

ORDER

1. The Complaint of Discrimination is **DISMISSED**, with prejudice.

Dated this 25th day of February, 2015



Hon. Noel F. Allen
Administrative Law Judge
Indiana Civil Rights Commission

Served by United States Mail on the following:

Billy Pitcock
5930 North Sugarlane
Plainfield, IN 46168

Debra Wernke
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250 N. East St.
Plainfield, IN 46168

Alexandra M. Curlin
Curlin & Clay Law
8555 Cedar Place Dr., Ste. 112
Indianapolis, IN 46240

and to be personally served on the following attorney of record:

Michael C. Healy, Esq.; Staff Counsel
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