

JUL 24 2015

INDIANA STATE
CIVIL RIGHTS COMMISSION

STATE OF INDIANA
INDIANA CIVIL RIGHTS COMMISSION

JAMAL L. SMITH, in his official capacity
as EXECUTIVE DIRECTOR OF THE INDIANA CIVIL
RIGHTS COMMISSION

Complainant,

vs.

HERMAN & KITTLES PROPERTIES, INC., and
FRANKLIN PLACE APARTMENTS,
Respondents.

) Docket No.: HOha14120961

) HUD No.: 05-15-0364-8

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

On July 6, 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”).


No objections have been filed 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.

INDIANA CIVIL RIGHTS COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER


COMMISSIONER

July 24, 2015

Served by Certified Mail on the following:

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

Fred S. Bremer, Esq.; Staff Counsel
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) Docket No.: HOha14120961

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

On June 29, 2015, Respondent, Herman & Kittles Properties, Inc., and Franklin Place Apartments ("Respondents") filed their 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. Joy Nelson filed the Complaint of Discrimination on December 19, 2014 naming the Respondents, alleging unlawful discrimination because of disability in violation of the Indiana Fair Housing Act, IC 22-9.5 ("the IFHA").

2. On June 12, 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. Specifically, the Respondents unreasonably delayed or denied Complainant's request for a reasonable accommodation.

3. Mr. Smith did not find probable cause on the issue of whether Respondent evicted Complainant because she has a disability. Although the ICRC did not find cause on this issue, the Complainant may assert any and all claims in a court of proper jurisdiction.

4. Respondent filed the NOTICE within twenty (20) days of receipt of the Notice of Finding and Issuance of Charge.

5. 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).

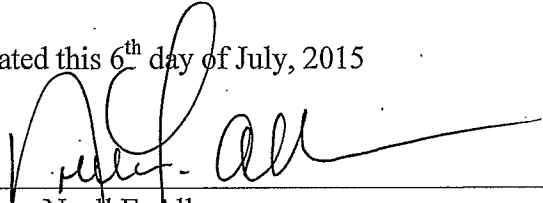
6. Administrative review of this proposed decision may be obtained by the filing of a writing identifying with reasonable particularity each basis of each objection within fifteen (15) days after service of this proposed decision. IC 4-21.5-3-29(d).

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 6th day of July, 2015



Hon. Noell F. Allen
Administrative Law Judge
Indiana Civil Rights Commission
Indiana Government Center North
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Indianapolis, IN 46204-2255
Debbie Rincones-Chavez, Admin Asst.
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