

STATE OF INDIANA
CIVIL RIGHTS COMMISSION

DOCKET NO. HOr11090598
HUD NO. 05-11-1565-8

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

FILE DATED
JUN 22 2012

INDIANA CIVIL RIGHTS COMMISSION

v.

DONNA and RICHARD SMITH,
Respondents.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

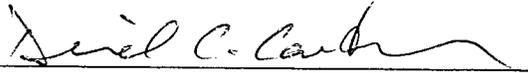
On May 16, 2012, Robert D. Lange, Administrative Law Judge ("ALJ") for the Indiana Civil Rights Commission ("ICRC"), entered his Proposed Findings Of Fact, Conclusions Of Law, And Order ("the proposed decision").

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.

INDIANA CIVIL RIGHTS COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER


COMMISSIONER

Dated: 22 June 2012

To be served by first class mail on the following parties and attorneys of record:

Diana Chambers
P.O.Box 1193
Muncie, IN 47308

Donna and Richard Smith
321 South Walnut Street
Muncie, IN 47302

DeFUR • VORAN LLP
BY: Scott E. Shockley, Esq.
Attorneys for Respondents Donna and Richard Smith
400 South Walnut Street, Suite 200
Muncie, IN 47305

and to be personally served on the following attorney:

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

**STATE OF INDIANA
CIVIL RIGHTS COMMISSION**

**DOCKET NO. HOra11090598
HUD NO. 05-11-1565-8**

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

**FILE DATED
MAY 16 2012**

INDIANA CIVIL RIGHTS COMMISSION

V.

**DONNA and RICHARD SMITH,
Respondents.**

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

On May 11, 2012, Respondents Donna and Richard Smith ("the Smiths") 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. Diana Chambers ("Chambers") filed the complaint initiating these proceedings on September 20, 2011 alleging unlawful discrimination because of race in violation of the Indiana Fair Housing Act, IC 22-9.5 ("the IFHA"). COMPLAINT OF DISCRIMINATION (September 20, 2011).
2. The Smiths denied the claim of unlawful discrimination. ANSWER (October 5, 2011).

3. On April 27, 2012, the ICRC's Director issued his NOTICE OF FINDING AND ISSUANCE OF CHARGE, finding reasonable cause to believe a violation of the IFHA had occurred. NOTICE OF FINDING AND ISSUANCE OF CHARGE (April 27, 2012).
4. The NOTICE was filed within 20 days of his receipt of the reasonable cause finding.
5. Any Conclusion Of Law that should have been deemed a Finding Of Fact is hereby adopted as such.

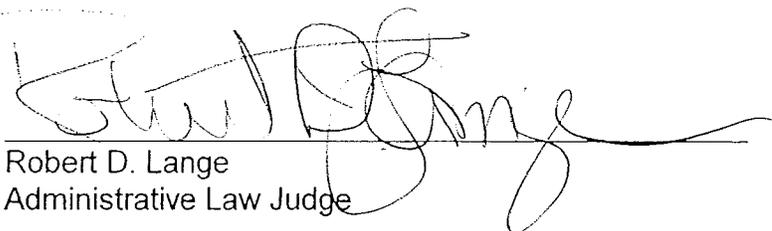
CONCLUSIONS OF LAW

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 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 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 is **DISMISSED**, with prejudice.

Dated: 16 May 2012


Robert D. Lange
Administrative Law Judge

To be served by first class mail this 16th day of May, 2012 on the following parties and attorneys of record:

Diana Chambers
P.O.Box 1193
Muncie, IN 47308

Donna and Richard Smith
321 South Walnut Street
Muncie, IN 47302

DeFUR • VORAN LLP
BY: Scott E. Shockley, Esq.
Attorneys for Respondents Donna and Richard Smith
400 South Walnut Street, Suite 200
Muncie, IN 47305

and to be personally served this 16th day of May, 2012 on the following attorney:

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

and to be served by electronic mail this 16th day of May, 2012 on the following:

Indiana Civil Rights Commission
c/o Jamal L. Smith, Executive Director