

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

EDDY GROSSE,

Petitioner,

vs.

FLORIDA POWER AND LIGHT
COMPANY,

Respondent,

and

FLORIDA PUBLIC SERVICE
COMMISSION,

Intervenor.

CASE No. 96-5784

96-0726-R1

CORRECTED RECOMMENDED ORDER

Pursuant to notice, the Division of Administrative Hearings, by its duly designated Administrative Law Judge, Susan B. Kirkland, held a formal hearing in this case on February 14, 1997, in Miami, Florida, by video teleconference.

APPEARANCES

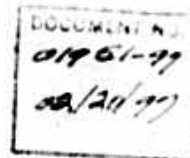
For Petitioner: No Appearance.

For Respondent: Robert E. Stone, Esquire
Post Office Box 029100
Miami, Florida 352446

For Intervenor: William Cochran Keating IV, Esquire
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0863

STATEMENT OF THE ISSUES

Whether Petitioner is responsible for the payment of electric use at a customer's rental property.



PRELIMINARY STATEMENT

On March 12, 1996, Petitioner, Eddy Grosse, filed a complaint with the Intervenor, Florida Public Service Commission, concerning billing to his account for electric use of tenants of his rental property. An informal conference was held on June 3, 1996, and no resolution was achieved. On August 5, 1996, the Florida Public Service Commission entered a Notice of Proposed Agency Action Order Affirming Liability for Unpaid Balance, proposing that Eddy Grosse be found liable for the unpaid balance of \$871.12 for electric use. Mr. Grosse requested an administrative hearing on August 26, 1996. On December 9, 1996, the Florida Public Service Commission forwarded the case to the Division of Administrative Hearings for assignment to an Administrative Law Judge.

On December 23, 1996, the Florida Public Service Commission filed a Motion for Leave to Intervene. The motion was granted by order dated January 9, 1997.

Petitioner failed to appear at the final hearing. Respondent, Florida Power and Light Company moved to dismiss the case at the final hearing. The motion was granted to the extent that a Recommended Order would be entered recommending that the case be dismissed.

FINDINGS OF FACTS

1. Petitioner, Eddy Grosse, filed a complaint against Respondent, Florida Power and Light Company, alleging that he was not responsible for electric use of tenants of his rental property who failed to pay for their electric use.

2. On August 5, 1996, the Intervenor, Florida Public Service Commission entered a Notice of Proposed Agency Action Order Affirming Liability for Unpaid Balance, holding that Mr. Grosse was liable to the Respondent for the unpaid balance of \$871.12.

3. Mr. Grosse requested an administrative hearing on August 26, 1996.

4. The case was forwarded to the Division of Administrative Hearings on December 9, 1996. On January 9, 1997, the undersigned Administrative Law Judge issued a Notice of Hearing by Video, scheduling the final hearing for February 14, 1997. The Notice was sent to Mr. Grosse.

5. The hearing was scheduled to commence at 9:00 a.m. Because of technical difficulties with the video equipment the hearing actually commenced at 10:00 a.m. Mr. Grosse did not appear at the final hearing and did not notify the Division of Administrative Hearings that he would not be appearing.

CONCLUSIONS OF LAW

6. The Division of Administrative Hearings has jurisdiction over the parties to and the subject matter of this proceeding. Section 120.57(1), Florida Statutes.

7. Petitioner has the burden to establish that the allegations of his complaint are correct. Petitioner did not appear and did not present any evidence; thus, Petitioner has failed to establish the allegations of his complaint. His request for an administrative hearing should be dismissed.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that a Final Order should be entered dismissing Petitioner's Petition for an Administrative Hearing and finding Petitioner liable for the unpaid balance of \$871.12.

DONE AND ENTERED in Tallahassee, Leon County, Florida, this 19th day of February, 1997.

Susan B. Kirkland

SUSAN B. KIRKLAND

Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(904) 488-9675 SUNCOM 278-9675
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Filed with the Clerk of the
Division of Administrative Hearings
this 19th day of February, 1997.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this recommended order. Any exceptions to this recommended order should be filed with the agency that will issue the final order in this case.